SENATE—*Monday, April 14, 1986*

(Legislative day of Tuesday, April 8, 1986)

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Not everyone that saith unto me Lord, Lord, shall enter into the Kingdom of Heaven; but he that doeth the will of my Father which is in Heaven.—Matthew 7:21.

Patient Father in Heaven, we thank You that our forebears took You seriously, however, they may have differed as to religious institutions. The Bible informed their lives and convictions out of which came a great republic. Forgive us, Lord, when we ignore You and the Bible as irrelevant. Help us see that the problem is not with those who deny that God exists, but with those who profess faith in God and behave as though He is nonexistent. Grant, Faithful God, that our lives will measure up to our profession. Forbid that we should forsake the faith of our fathers. Restore us in faith and life to Your glory and praise. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, to be followed by special orders in favor of the following Senators for not to exceed 5 minutes each: Senator HAWKINS, whose statement will be read by the distinguished Presiding Officer, Senator THURMOND; Senator PROXMIRE; Senator WEICKER; and Senator CRANSTON.

Following the execution of the special orders, there will be a period for the transaction of routine morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

Hopefully, at that point or shortly thereafter, we can take up S. 1236, technical amendments to the crime bill. I understand there is an agreement that we can handle that without a rollcall vote.

Then, at some time in the afternoon I would attempt to proceed to S. 1774, the Hobbs Act and possibly file a cloture motion, on which the vote will occur on Wednesday.

It is also my hope that we can clear the joint resolution on farm credit offered by myself and other Senators, about 38 of us, so far as I know. They are pretty equally divided between Republicans and Democrats as a bipartisan issue. It is my hope that we can pass that early this week.

I hope to be able to advise the distinguished minority leader later today or the first thing tomorrow morning as to what the plans will be for the entire week so that that information will be available for our policy luncheons tomorrow.

Mr. President, I do not expect a late day today, and I do not expect any rollcall votes today.

On tomorrow, if there is an amendment or something offered by Senator HART concerning the hydro-relicensing bill, that will come at 3 o'clock. From 10 o'clock until noon, as I recall, if, in fact, Senator MELCHER has an amendment or amendments, I hope we can dispose of those amendments by voice vote. In any event, if there are rollcall votes, they will follow the vote on the Hart substitute if, in fact, there is a vote, which will be followed by final passage.

Hopefully, Mr. President, we can dispose of the hydro-relicensing bill fairly early on tomorrow.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. EAST). The minority leader is recognized.

Mr. BYRD. Mr. President, while the distinguished majority leader is on the floor, is he in a position to tell the Members of the Senate when we might expect the budget resolution to be brought up? I believe it was reported by the committee to the Senate 22 days ago, as I recall. How soon may we expect to have the budget resolution before the Senate?

Mr. DOLE. Mr. President, I would only say to the distinguished minority leader I will be meeting this afternoon with Don Regan, the President's Chief of Staff, as well as with Jim Miller, the OMB Director.

Mr. President, the problem with the budget as reported is it is not a very good budget. It contains a lot of new taxes and cuts defense spending but it does not cut domestic spending sufficiently. While I understand it is bipartisan, it has not been well received on this side of the aisle by about half of my colleagues. I would hope that, as I have indicated before, when we do bring it up, there will be an appropriate substitute that can be adopted by a bipartisan majority that will put back some of the defense cuts, reduce the revenue figures, and try to do more on the domestic spending side.

I may be in a position later today or tomorrow to advise the distinguished minority leader.

Mr. BYRD. I thank the distinguished majority leader.

Mr. President, the distinguished majority leader refers to the budget as not a very good budget. From what I have heard in talking with several members of the Budget Committee, they think it is a good budget, a moderate budget, a fair budget. It was reported out on a bipartisan basis, I believe with seven Republicans and six Democrats voting to report it.

If it is not a good budget, if it needs fixing, if it has some flaws, why not bring it up on the floor and let the light of public scrutiny and scrutiny by our colleagues develop ways, if there be such, to improve it?

I may want to offer an amendment myself, or others may want to offer amendments. With 50 hours of debate on the budget, it would seem to me that would be ample time to discover any flaws in it and to improve it, if necessary.

Of course, I am sure the distinguished majority leader is probably under some pressure from the White House to try to develop a substitute. That may or may not be the case. I am in no position to say. But it seems to me, with this being the greatest deliberative body in the world, we should be able to deliberate on this budget and improve it. If the White House has some problems with it, so be it. Maybe they can be corrected on the floor.

Mr. DOLE. Will the Senator yield at that point?

Mr. BYRD. Yes, I yield.

Mr. DOLE. I want the record to reflect that we have actually had the budget on the Calendar, I think, for about 6 legislative days. We had a recess for a day in that period. Also, I want to reemphasize my hope that we will have some action on the House

side. I understand there are a lot of politics in the budget. We are not waiting for the White House solution because I doubt that will come, to be very frank and candid with the distinguished minority leader. My view is that they do not see any real urgency with the budget.

There is some rumor that they may try to do it through the appropriations process, that they may be better off going that route. You would not have the revenue problem.

The budget is important, and I believe in the budget process, and I believe we have to preserve it and should make every effort to do so.

At the same time, I am certainly willing to admit that some of my friends are for it and some of my friends are against it, and I want to be with my friends. That is sort of a position I find myself in at this point.

It is my hope that not only can we discuss the budget with the White House, but also, if they are not willing to negotiate, as I understand they are not, based on the written reports I have read, public reports, then I think the best course to follow would be to bring it up and let the Senate work its will. I would certainly have amendments. The minority leader might have amendments.

I would also urge the House to come to the party. They also have a responsibility. We are both going to miss the deadline, which is tomorrow. But I hope, as we suggested to the Speaker in the letter, we might sort of march in lockstep on the budget issue. I have not yet had a response to that inquiry.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

With respect to House action, it seems to me that it is wholly irrelevant, as to when the House acts. I cannot understand why we should wait on the House to act. As I understand it, the House has not even reported the budget from the Committee. But that is wholly irrelevant.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. LONG. Mr. President, I say to the distinguished minority and the distinguished majority leader that this is a matter, in my judgment, on which the Senate should act. We had a resolution that we voted on, that we need to vote on this matter before we take up the tax bill.

In the judgment of this Senator, facing the enormous deficits we do face, we ought to reduce spending wherever we can. Having reduced spending as much as we can, we then ought to look at the revenue side and help reduce the deficit by reaching the revenue side as well.

I am familiar with the point of view of the White House—the President, at least—about no taxes. But although the President has consistently taken that attitude about taxes, he has bent to go along with ROBERT DOLE's bill which reduced the deficit, and he did yield a peg to go along on a 5-cent tax on gasoline, and he did go along with an increased Social Security tax to meet the problems of this sort, and he went along with the deficit reduction package in which many of us joined, in a bipartisan fashion, to pass and to help reduce this enormous deficit.

No matter what the President wants to do about the matter, we have a responsibility ourselves. What is the purpose of this budget process if it is not to try to get Congress to join forces and meet a very serious problem?

The budget committee could meet—and that is not on a Presidential recommendation and a bill signed by the President. They meet on the President's suggestions and recommend responsibility, or they are supposed to recommend responsibility, on this overwhelming problem.

If this matter can sit around and languish and wait until after the tax bill has been dealt with in the Senate, that is to convey a veto in advance, in effect, an irrevocable veto; because the chances are that we will not have an opportunity to send a big enough horse to carry that rider to the White House if we think taxes should be part of the answer to the problem.

So far as I am concerned, I want to do what is best for the country. I do not see how we can do it if we are going to continue to stall and put off action on this budget. There is no way I see that we can do the responsible job.

Mr. BYRD. Or the other body.

Mr. LONG. Or the other body.

Mr. BYRD. The Budget Act itself does not say anything about both Houses having to act concurrently. The act sets April 15 as the date when both Houses should have completed their work, conference and all, and here we are with the April 15 deadline tomorrow.

The measure has been reported by the Senate Budget Committee for several days. It has not been reported by the House committee. But it is irrelevant as to when the House acts. We have our own responsibility here. We have 50 days, and it seems to me that we should be moving ahead. I think we have to get down to the serious work that our constituents send us here to do.

Mr. LONG. I want to say, further, that although it was not my privilege to vote on who the majority leader would be, if I had been privy to vote, I would have voted for Mr. DOLE to be majority leader. So far as I am concerned, he was my candidate. Obviously, the Republicans were not going to let the Democrats agree as to who the majority leader should be. I was disposed to vote for Mr. BYRD to be the minority leader.

Mr. DOLE was my majority leader, even though I could not vote for him. He was the best man, I thought, for the job; and I am pleased that the Republicans chose Mr. DOLE to be their leader.

Mr. President, I want the majority leader to be our leader. I want him to represent us, rather than represent the President of the United States. I know how the White House works. I was in the leadership at one time, and I know that the White House would like our leader to be the President's messenger up here. BOB DOLE is not made of that kind of stuff. But from time to time I think we need to be reminded that he is supposed to be working for us. The President does not pay his salary.

Mr. BYRD. That is right—he is our leader. He is the Senate's man, not the President's man.

Mr. LONG. Mr. President, I once read a little book that inspired me for the rest of my life. It had one little passage in it that said there are two ways you can look at a problem. One, you could say, "Many are slaves because one is a tyrant. Let us hate the tyrant." Or, you could look at it another way and you could say, "One is a tyrant because many are slaves. Let us hate the slaves." I prefer to look at it that way, Mr. President.

It seems to me that the President has his responsibility and we have our responsibility.

We have no right to say that we would have done what is good for the country except that the President would not let us do it. We should do our duty in answer to our own conscience and let the President do what he wants. If he wants to veto, let him veto. At least we can say we did what we thought was right.

I have found, in serving in this body, that it is easy enough to vote for what the people in one State want. I believe that sometimes you can get away with voting contrary to what they want, if you convince them that you thought it was right, even though they did not. But what it is difficult to convince your people about is that you did it not because of what you thought was right or what they thought was right, but what somebody else thought was right, contrary to your judgment and contrary to the judgment of those you represent in this body.

I hope Senators will be Senators and take that attitude. If the President does not want to go along, fine. I still want to vote for what this Senator thinks is right, and have the privilege of doing so.

This Senator feels that if the budget process is not going to be permitted to work, we should get rid of it.

We should bring the matter up here and vote the committee up or down. I might differ with the committee in some parts; that is the way the process is supposed to work. Bring it out here and vote. I would like to support the Budget Committee in trying to reduce the deficit and see what happens. I hope the leadership on both sides of the aisle will help to bring that about, because as far as this Senator is concerned I am not running for reelection. I told everybody I am not going to run. So during the time remaining to this Senator, I can afford to vote for whatever I think is good for the country, without fear of consequences, you might say, except just to answer to my own conscience. I would like to vote for what is best for the country.

Mr. DOMENICI, for example, has provided courageous leadership on that committee and I believe Mr. CHILES and others have made it bipartisan. I would like very much to support them in their effort to make this budget thing work, because if it does not work we should get rid of it. The Senate should not be fiddling and faddling with a budget wasting all this time if we are not going to give the support that it takes to make that program work.

Mr. BYRD. I thank the distinguished Senator from Louisiana and I thank the distinguished majority leader.

FBI SPECIAL AGENT JERRY DOVE

Mr. BYRD. Mr. President, the town of Dunbar, WV, mourns today. It has lost one of its finest and bravest sons, FBI Special Agent Jerry Dove, who was killed last Friday in a hail of gunfire in Miami, FL.

Special Agent Dove was loved and respected by everyone who knew him. He was the type of man of whom this Nation can be most proud, who every parent wants for a son, and every decent, law-abiding citizen wants in the front line of defense against crime.

According to those who knew him, for as long as they can remember, Jerry Dove seemed to have one ambition—one dream—in life: to be an agent for the Federal Bureau of Investigation. After graduating from West Virginia University Law School in 1981 and serving as an assistant attorney general for the State of West Virginia for a year, he fulfilled that dream. During his visits to his hometown after becoming an agent, Special Agent Dove constantly told his friends of how he enjoyed and cherished every moment he was with the greatest law enforcement organization in the world.

Gunned down in the prime of his life, Special Agent Jerry Dove did not die in vain. He was performing his duty for the agency he held dear and performing his duty to his fellow man. He died protecting the innocent and pursuing those who would do them harm. He died fighting to push back that ever present web of evil that constantly threatens to encircle and engulf the free and honest people of this great country.

The death of this young and dedicated servant of the people is a reminder of how fragile life is. And it is a reminder of how people in law enforcement put their lives in jeopardy every day to safeguard society. How often we read about the excesses of a few people in law enforcement, while we take for granted the work of the vast majority of these courageous men and women until we read or hear of tragic events like that which took place last Friday in Miami.

To the people of Dunbar, especially the family and friends of Special Agent Dove, I say that while you mourn, you can be comforted with the knowledge that the young man you loved and respected is now in the embrace of an all-loving God.

To his mother, Patricia "Bobby" Dove, my wife Erma and I extend our most heartfelt condolences. I feel that I can speak for every Member of the U.S. Senate in saying that we thank you for your son and that we share your grief.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina will be recognized to speak for the Senator from Florida.

Mr. WEICKER. Mr. President, will my good friend from South Carolina yield?

Mr. THURMOND. I yield to the Senator.

PROPOSED SWAP

Mr. WEICKER. I was privileged to be here on the floor as I heard the comments of the distinguished Senator from Louisiana. I say this: If he would like to participate in the Republican caucus I am sure the Republicans would be glad to swap WEICKER for LONG on an even enough basis.

Mr. THURMOND. I join in that, inviting him to come over on this side where he should have been all the time.

SENATOR HAWKINS' SPECIAL ORDER

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. On behalf of Mrs. HAWKINS, I wish to present a statement.

It is entitled, "How Slow Spin the Wheels of Mexican Justice."

HOW SLOW SPIN THE WHEELS OF MEXICAN JUSTICE

Mrs. HAWKINS. Mr. President, it is true that we spend a great deal of time and effort pressuring poor countries to control narcotics trafficking. It is a fact that there would be no trafficking in the first place without the enormous demand in the United States and other affluent nations for cocaine and other illegal drugs. One hand washes the other. The cocaine trail leads from the jungles of Peru, to the lairs of unconscionable smugglers in Mexico and Colombia, through the sheltered waters off Fidel Castro's Cuba, and to the pathetic victims on the streets of New York, Washington, Miami, and other major cities of the United States. It's a mean, vicious trail of subterfuge, corruption, and terrorism, leaving in its backwash twisted minds, wrecked bodies, broken homes, and economic disruption.

Many countries pay lip service to the international effort to curb drug trafficking. Mexico and opium are a case in point. Mexican opium production in 1983 amounted to an estimated 17 metric tons. This year, production will range somewhere between 21 and 45 metric tons. Does that sound as if Mexico is making a concerted effort to reduce drug trafficking? In contrast, other major opium producers managed to achieve cutbacks. Production in Iran during the same three year period was cut in half. Other significant reductions were made by Pakistan, Iran, and Afghanistan. Marijuana shipments to the U.S. from Mexico grow. At the same time, Mexican eradication efforts falter. Marijuana eradication during the first six months of 1985 were 30 percent lower than for the first half of the previous year. One-third of all illegal heroin consumed in the U.S. originates in Mexico and another third passes through Mexico enroute to the U.S. Purity levels of Mexican heroin continue to rise while prices drop. The classic law of supply and demand holds forth—the larger the supply available, the lower the price.

Despite Mexico's role as a major producer and transit country of cocaine and heroin, local demand is slight. The drugs are made for export and I do not need to remind you who the number one customer is. Mexicans appear to prefer smoking marijuana and sniffing glue over "coke" and "horse."

The Mexican legal system poses a dismal picture when applied to drugs. The penal code is based on the Napoleonic tradition. Laws relating to narcotics generally are viewed as adequate, but enforcement is another thing altogether. The enforcement process is slow, cumbersome, and mired down in corruption at all levels. The lack of a computerized records system, or a centralized depository of criminal records that can be accessed by telephone, is a monumental handicap. Given the corruption level, there may be highly placed officials who do not want Mexico's legal record system to be state-of-the-art. It could be too efficient. Were it not for drug-financed corruption, the prison escape of Jose Contreras-Subias, a key figure in the Rafael Caro Quintero trafficking ring, could not have been engineered. Caro Quintero, you may recall, was indicted April 8, 1985 in connection with the brutal kidnap-torture-murder of DEA agent Enrique Camarena Salazar. He has yet to be tried. I think even Napoleon would raise his eyebrows over how the legal code that bears his name has been applied in the Camarena case. It's a textbook case of judicial foot-dragging. It has now been one year and six days since Caro Quintero was indicted. How slow spin the wheels of Mexican justice.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

THE UNITED STATES CAN NEGOTIATE ARMS CONTROL FROM STRENGTH RIGHT NOW

Mr. PROXMIRE. Mr. President, recently, President Reagan contended that this country must continue its feverish buildup of our military forces because the Soviet Union has a big military advantage over this country. He cited the vast superiority in Soviet tanks. He called attention to the much greater number of Soviet artillery pieces. He could have added the advantage the Soviets have in the number of troops, the number of ships, and even the number of planes. The President's facts were generally accurate. His implication that the Soviets have a stronger military force is wrong.

How does the Soviet military capability compare to America's military strength? Could the Soviets at will initiate a successful attack on the vital security interests of our country in Europe or in Asia or even directly against the United States itself? If so, what is the President recommending that this Congress do to respond to the Soviet military advantages that the President has highlighted? Does the President recommend that this country increase the number of our tanks to overcome the Soviet advantage? No. Does President Reagan ask this country to acquire the great number of artillery pieces necessary to put us on an equal plane with the Soviet Union in that respect? No. Does he call for an expansion of the number of troops in our armed services, so we can have the 5.7 million men under arms that the Soviet Union has? No. Does the President want us to step up the already accelerated production of ships? No. How about the increase in planes? Does the President call for this? No.

So why is the President making such a stir about the fact that the Soviets have such a massive advantage in so many military forces if he doesn't believe that Soviet advantage is significant enough for this country to overcome it? If the President could develop the case for this country matching the Soviets tank for tank, gun for gun, ship for ship, man for man, this country could do it, and Congress would appropriate whatever funds were necessary for the tanks, artillery, troops, ships, and planes. Our economy is twice as big as the Soviet's economy. The NATO economy is three times bigger than the Warsaw Pact economy. With far less effort than the Russians are making, we could easily match and surpass the Soviets militarily. So why doesn't the President call on us to do it?

The answer is that neither the United States nor the North Atlantic Treaty alliance needs to build up our military force in any of the specific areas the President has cited. The President knows that. That is why he has made no effort to ask for the tanks and artillery and planes and ships necessary to match the Soviets.

Is the President wrong in failing to call on the Congress to build up this country's capability in the military hardware where the Soviets have such a compelling advantage? No. The President is right, absolutely right. This country and its NATO allies have a devastating antitank capability. We have antitank guns mounted on mobile land carriers, antitank guns mounted on fast moving helicopters, antitank guns mounted on even faster planes. The Soviets have more combat aircraft. But they know that in conflicts between United States and Soviet aircraft in the Middle East, United States aircraft have prevailed and prevailed overwhelmingly.

How about the Soviet artillery advantage? Soviet and Warsaw Pact artillery is even more vulnerable to superior NATO land and air attack than Soviet tanks. How about the superior number of Soviet warships? Mr. President, numbers mean little. It means comparing Soviet patrol boats with United States cruisers. The real measure of naval strength is in naval firepower. How do the superpowers compare? There is no question that the United States has a huge advantage in naval firepower compared to the Soviet Union. When we compare NATO to the Warsaw Pact, the advantage becomes even greater. And in the combined power of air and sea forces represented by aircraft carriers, the advantage lies resoundingly with the United States over the Soviet Union. The United States has 15 aircraft carrier task forces. The Soviet Union as a couple of small helicopter carriers and one or two full-size aircraft carriers under construction.

Now consider the key element in military power in this nuclear world. Both superpowers have approximately the same number of nuclear warheads. The Soviets have the greater megatonnage and throw-weight. But the United States enjoys the crucial advantage. The U.S. nuclear deterrent is deployed in a far more survivable mode. Seventy percent of the Soviet nuclear deterrent is based in the most vulnerable kind of site, on stationary, land-based launchers—sitting ducks. Only about 25 percent is based on submarines and a mere 5 percent is deployed on bombers. Compare that with the far less vulnerable U.S. deterrent. Only 25 percent of the U.S. nuclear deterrent is stationary, land-based. A whopping 50 percent moves in mobile submarines, which the Secretary of the Navy has rightly described as virtually invulnerable. Twenty five percent—five times more U.S. nuclear weapons power—is deployed in bombers.

It may well be that in the nuclear age, military superiority between the superpowers is irrelevant because neither country could utterly destroy the other even after suffering a preemptive attack from its adversary. Both President Reagan and Secretary Gorbachev have said that a nuclear war must never be fought and can never be won. A war between the United States and the Soviet Union would very likely become a nuclear war. This is why the survivability of the nuclear deterrent is so absolutely critical. It is why the United States far less vulnerable deterrent gives our country the decisive military advantage. It is also why the President has not asked the Congress to match the Soviet Union in the numbers of conventional armament. And it is why the Reagan comparison of tanks and artillery pieces is so totally irrelevant.

Mr. President, this country does not need a major increase in military spending. The Congress should insist on using our superior economy and technology to maintain the kind of military quality advantage we hold over the Soviet Union, and we should use our great military strength now to negotiate arms control agreements that would stabilize the military deterrent of both superpowers and ease the immense economic burden that the arms race imposes on both countries.

THE GRIM TRUTH ABOUT THE ECONOMIC OUTLOOK

Mr. PROXMIRE. The American economy is weak. It is not strong. How can I say this when the stock market has been breaking one record after another? How can I say this when inflation has moderated to a level that has not been seen for 20 years? How can I say this when interest rates have been going down, down, down? Here is why: Here we have been rolling along in the 5th consecutive year of triple digit deficits. At this very moment the annual rate of the Federal Government deficit during the first 6 months of the current fiscal year that will end next September 30 exceeds $200 billion. With this kind of super stimulative deficit, of course, the American economy has been growing. It is being force fed. Our fiscal policy is not just stimulative. It is wildly, irresponsible stimulative.

How about monetary policy? For more than a year an extraordinarily expansive monetary policy has pushed the American economy along. In the past 12 months the money supply has rocketed ahead at an astonishing rate

of a 12-percent increase. Inflation putters along at less than a third of the rate of increase in the supply of credit. So here we have the super combo: All out truly reckless fiscal policy pushing the economy, plus a virtual explosion in the money supply. In nearly 30 years in this body this Senator cannot recall a time when fiscal and monetary policy have been so spectacularly expansive. And yet interest rates are falling. Why? Can anyone wonder why interest rates are down? The supply of credit is breaking all records for abundance. But that is only half of the reason. The other half is that the demand for credit is pitifully weak. In the past quarter of calendar 1985 the economy grew at the anemic rate of 0.7 percent. That means it was stumbling, staggering, crawling.

And why is inflation behaving so well in spite of this runaway fiscal policy and explosive monetary policy? Several reasons. But there is one simple and widely neglected answer. Inflation has been staying down not because of the free fall in oil prices. That has helped, but it has not been fundamental. Inflation has stayed down not because farm prices have fallen through the floor and taken tens of thousands of farmers down the heartbreaking road to bankruptcy in the process. The consequent low food prices have been marginally helpful to keeping inflation under control, but they have not been the prime factor. So what has caused inflation to behave so well? Answer: The same force that has kept interest rates down—the feebleness of the economy. What has always been the major reason prices rise? The major cause of inflation has been wage increases that exceed productivity improvements. Productivity has been wretched in our economy lately. So wage costs might be expected to rise and take prices up with them. Why hasn't that happened? Because this country still has more than 7 percent of its work force—an enormous 8 million plus Americans—out of work. Unemployment has hit specially hard in those industries that are heavily unionized. With union workers weakened by low demand in the manufacturing industries, the unions cannot lead the way. The huge pools of unemployed persons prevents nonunion wages from rising much in any major industry.

If the economy is weak now, what is the outlook? It is poor. First, there is little pent-up demand. Housing sales have been fairly high in recent years. They appear to be coming down in spite of the decisive fall in interest rates. The other major consumer purchases—automobiles—also shows no big potential. The last few years have been fairly big ones for the auto industry. There seems little demand in sight for new cars. And meanwhile the savings rate of the American people hit an all-time low last year. The consumers' reserves are running on empty. Suppose the American consumer returns to the 5 percent to 6 percent of income saved in the next couple of years. What does that mean? That means American consumers spend less. So sales and production and jobs fall. In fact, they will go through the floor. Corporations too are far more likely to save than to invest in new plant or equipment. They have just broken all records for debt. Like American consumers, American business is in very fragile shape. Many corporations are too near to survive a major recession. With equity razor thin, a year or 2 of losses would make many American firms insolvent.

This brings us to the most serious threat to economic recovery—the sudden, sharp shift in Federal deficits from the present $200 billion level down to zero in the next 4½ years. This Senator will do everything in his power to support those reductions. But let's face it. These reductions will contribute to a prolonged and deep recession. Then why will I fight for them? Because the alternative is worse, much worse. The alternative simply postpones the evil day. The alternative would give the country not just continued $200 billion deficits but $300 billion and $400 billion dollar deficits. The alternative will give us a national debt that will literally require most of our Federal revenues just to service the national debt that is for interest payments. And, of course, whenever we try to come off a $400 billion deficit and move toward a budget balance, the recession and unemployment will be far worse.

Mr. President, this country does not face happy times. It faces grim, tough, painful recession times. If we are to save this greatest economy in world history, we must recognize that cruel fact fully and squarely. We must take the painful budget cutting and tax increasing steps to meet it. And we must do it now.

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, there is a line in Isaiah (30:7) that "In quietness and in confidence shall be your strength." And that quote is something we should keep in mind whenever we think about star wars.

Confidence is a wonderful thing. It implies a whole world of faith and trust in our ability to succeed. You can see that strength of confidence in athletes who are sure they can sink the next putt, or hit a homerun, or a violinist who faultlessly plays a Bach partita.

But how about confidence in the things we build, like automobiles or airplanes? Or how about the things we are thinking of building, like the star wars missile defense system?

We are pretty confident that our cars and planes will operate as they are supposed to. Every once in a while, however, something shakes up our confidence in these mechanical devices. Witness the tragic explosion of the space shuttle *Challenger*, or a plane that inexplicably crashes.

Now, you might ask why am I so concerned about this? Simply this: Take star wars or SDI. How much trust can you have in something so monumentally complicated that human brains cannot begin to comprehend the mathematics involved? Something so complex that in laboratories across the country our best scientific minds are searching for answers to its most basic questions? Something so complex that research costs alone, according to the fiscal 1987 budget, is $4.9 billion. By the way, that is 75 percent above the $2.75 billion Congress appropriated in 1986. Star wars is something so complicated that no one, I repeat no one, has any idea what its final cost would be.

Mr. President, the myth of the day is that we can ever have confidence in a star wars defense system.

SDI advocates would have us believe that in the quietness of outer space, an SDI system faithfully could warn us of any impending attack, flawlessly track thousands of nuclear warheads and decoys and then swiftly destroy the threat.

President Reagan's notion of making nuclear weapons impotent and obsolete is wonderful. What brighter hope for mankind could we have than ridding the world of nuclear weapons? But what a wrong way to go about it. Why do I say this?

Here is why: the computer softwear, the programming instructions that control the entire system, is flawed.

Are computers important to star wars? You bet they are. Without computers to digest the incredible amounts of raw information that would pour in during an attack, nothing could be done. No human mind is up to this task. The simple, distressing fact is that we could spend hundreds of billions of dollars on star wars and end up with the space age equivalent of an Edsel. I am sure all the battle stations and satellites would look impressive whizzing around in space, yet without functioning computer softwear, star wars could not destroy a fly, let alone a swarm of attacking missiles.

So what is the flaw with the computer softwear? It is this: we can never make a realistic test of the system. Oh, sure, we could run test after computer test of star wars, and computers could spit electrons back and forth to simulate an enemy attack. But the key fact is that the tests would never tell us if a star wars system would really work if we needed it. Star wars would

have to work perfectly the first time. There can be no margin for error. Less than perfect means lost cities and millions killed as missiles escape a defective star wars.

We have to come back to this basic point, Mr. President. Can we have confidence in star wars? Could we place the security of our country in something so fatally flawed? I think not.

TRIBUTE TO IRVINE H. SPRAGUE FORMER CHAIRMAN AND DIRECTOR OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. PROXMIRE. Mr. President, I rise to pay tribute to a good friend and a long-time public servant who is just now entering retirement after 29 years of service with the Federal Government.

I have known Irvine H. Sprague almost since he came to Washington with Congressman John McFall of California in 1957, the same year that I arrived. I became better acquainted with him in the late 1960's when he was at the White House working as an assistant to President Lyndon Johnson. And I got to know Irv very well after he was appointed by President Johnson to his first term on the board of directors of the Federal Deposit Insurance Corporation.

Irv was appointed to a second term at the FDIC, this time as chairman, in 1979 by President Carter, thus becoming the only director in history to be appointed by two Presidents. Overall, Irv served 11½ years on the FDIC board, the second longest tenure in the agency's history. He was on the board during some of the most difficult and challenging times in the history of our banking industry.

During his long career in public service, Irv also worked for Speaker TIP O'NEILL as executive director of the House Steering and Policy Committee, and earlier he was California Deputy Director of Finance under Gov. Pat Brown. Prior to that, he was a California newspaperman.

Now that he is retired, Irv is reverting to old habits. He has announced that the first thing he will do is write a book about his experiences at the FDIC.

On the legislative side, Irv was always interested, both at the White House and a chairman and director of the FDIC, in helping Congress pass laws which he felt would benefit the nation. Foremost among those is the extraordinary interstate acquisition law for large troubled banks, the very measure which has had to come to Congress for renewal this month.

Irv has led a very active, interesting and accomplishment-filled life during this wide-ranging public career. I wish him a long, active and just as fulfilling retirement.

RECOGNITION OF SENATOR WEICKER

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut [Mr. WEICKER] is recognized for not to exceed 5 minutes.

S. 2294—HANDICAPPED EDUCATION ACT AMENDMENTS OF 1986

Mr. WEICKER. Mr. President, I rise today on behalf of myself and Mr. KERRY, Mr. ANDREWS, Mr. INOUYE, Mr. MATSUNAGA, and Mr. STAFFORD, to introduce legislation to amend and extend for 3 years programs authorized under the Education of the Handicapped Act.

Ten years after enactment of Public Law 94-142, we can be proud of the great strides we have made in meeting the mandate of that law: That all handicapped children be provided a free, appropriate public education in the least restrictive environment. Last year, over 4.1 million handicapped students received educational services as a result of this landmark legislation, and 93 percent of those were educated in our public schools.

We are all aware of the tremendous impact this legislation has had on the lives to children with handicaps. The doors of our Nation's schools are now open to all these youngsters, no matter how severe their disability. No longer do school districts have the freedom to legally abdicate their responsibility to educate handicapped children. No longer are the parents left helplessly on the sidelines while others decide on an educational strategy for their handicapped child. Today, parents and educators work together to develop individualized programs for these children.

What was once an idealistic concept—that we should be "mainstreaming" handicapped children into the public schools with their nonhandicapped peers—is now a reality. And it works. Everybody wins: The handicapped child who benefits socially, emotionally and intellectually from a normal environment, as well as the so-called normal child whose life is enriched by his association with children with handicaps.

The legislation I am introducing today will strengthen our national commitment to special education programs. It contains a major new initiative in the area of early intervention services for handicapped children. This new initiative is actually comprised of two sections. The first will create a new State grant program, authorized at $100 million in fiscal year 1987, to enhance services for handicapped children from birth through age 2. States wishing to apply for funds under this new grant authority will have to meet several requirements. These requirements include the development of an overall plan of service and establishment of a service delivery system for all eligible children within 2 years. This new service delivery system will be interagency in nature and the Governor of the State will designate a lead agency to administer the program. In addition, the due process protections established under Public Law 94-142 will be applicable to this new grant authority, as well.

States wishing to participate in the early intervention grant program must conduct a multidisclipinary assessment of each eligible handicapped child and develop an individualized program describing the necessary education, health and social services for that child. Appropriate support for the child's transition to school must also be provided. All of these services will be available at no cost to the parent, as are all other programs currently authorized under this act.

The need for these early intervention services cannot be denied. The State of the art is such that there is no excuse for waiting until a handicapped child reaches the age of 3 to begin to assist that child reach his maximum potential. In fact, the 1985 report to Congress of the Department of Education states: "studies of the effectiveness of preschool education for the handicapped have demonstrated beyond doubt the economic and educational benefits of programs for young handicapped children. In addition, the studies have shown that the earlier intervention is started, the greater is the ultimate dollar savings and the higher is the rate of educational attainment by these handicapped children." Yet the administration requests no legislative changes in the Education of the Handicapped Act to follow through on these findings. Instead, it supports only a simple extension of the existing programs and requests less than the 1985 levels of funding.

The second part of this initiative will be to mandate services to all handicapped children between the ages of 3 and 5 under Public Law 94-142. Although that law does mandate educational services to all handicapped children between 3 and 21, there is a large loophole. States whose laws do not require the provision of special educational services to those in the 3-5 age group are exempt from this aspect of the Federal mandate. As a result, although most States are providing some services to some eligible youngsters, approximately 239,000 children are still being deprived of these essential educational services. This new requirement will ensure that no person in this age group is denied the services that will assist them to reach their maximum potential. The estimated cost to the Federal Government of this requirement is $100 million, for a

total of $200 million for both parts of the early intervention initiative.

This week, during Senate consideration of the budget resolution, I will be offering an amendment to add $600 million for handicapped education programs. These funds will cover the roughly $200 million necessary for the early intervention initiative I described earlier, and $400 million to modestly increase the Federal Government's share of the cost of educating our handicapped children. In 1986, the Federal Government's contribution to the cost of special education was only 9 percent of the average per pupil expenditure—although the law envisions a 40-percent Federal share—and in 1987 the administration wants to reduce that commitment even further, to a paltry 7 percent. My amendment would bring up the Federal share to 12 percent of the total cost, a level reached only once before, in fiscal 1979.

In general, this reauthorization bill provides that discretionary programs under the Education of the Handicapped Act continue in their present form, and receive inflationary increases above the fiscal year 1986 appropriated level to maintain current services. There are a few exceptions, however.

Increases of 10 percent are provided for two areas where there are critical needs: personnel preparation and transitional services. During recent hearings of the Subcommittee on the Handicapped, we were presented with startling data documenting critical nationwide shortages of qualified special education professionals. One recent national survey found all but four States reported that the current supply of new graduates was not sufficient to meet the demand, and it is no secret that the educational services for handicapped children are meaningless without qualified teachers and specialists to deliver these services. In fact, special education experts now estimate that we will need over 100,000 new special education teachers by 1990.

For all of us, the transition from school to adult life is one of the most critical and challenging periods in our lives. It is even more so for those individuals with handicaps. As a result, we authorized in the 1983 Handicapped Education Amendments a pilot program to develop model secondary and transition programs to assist handicapped youth and their families face this challenge. Such demonstration programs have been funded around the country and have made a significant difference in facilitating the transition of handicapped students to the community. But again, the need is greater than the services available. Therefore, I am convinced that we need to continue and expand these model programs if we ever hope to reverse the grim unemployment statistics given to us by a recent Lou Harris poll: Two-thirds of handicapped adults are currently unemployed, and of those individuals, two-thirds of them want to work.

This Nation has moved quickly along the learning curve since pioneers like Senator Robert Stafford and then-Congressman, now Senator PAUL SIMON first wrote Public Law 94-142. Today, armed with 10 years of experience, we seek to build upon their work, expanding both education and equity.

This legislation represents an important step forward in fulfilling a Federal commitment to those most vulnerable in our society, who require our special care. It is the right thing to do, in both human and economic terms. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Education of the Handicapped Amendments of 1986".

ALLOCATIONS

SEC. 2. (a) AGE CATEGORY LIMITATION REVISION.—Section 611(a)(5)(A)(i) of the Education of the Handicapped Act (hereafter in this Act referred to as the "Act") is amended by inserting before the semicolon, a comma and the following: "except that the age category for the number of all children subject to the per centum limitation under this clause shall, in the case of a State which actually provides free appropriate public education for a different age category, be the age category which the State actually serves".

(b) SUPPORT SERVICES.—Section 611(b)(2)(B) of the Act is amended to read as follows:

"(B) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 612(3), and for the administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.".

ELIGIBILITY

SEC. 3. (a) GENERAL RULE.—Section 612(2)(B) of the Act is amended by striking out "aged three to five and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect two years after the date of enactment of this Act with respect to States which, in order to comply with the amendment made by subsection (a), have to qualify under State laws.

AUTHORIZATION FOR EVALUATION

SEC. 4. Section 618(g) of the Act is amended to read as follows:

"(g) There are authorized to be appropriated $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, and $4,200,000 for fiscal year 1989 to carry out the provisions of this section.".

EARLY INTERVENTION PROGRAM FOR HANDICAPPED INFANTS

SEC. 5. (a) GENERAL AUTHORITY.—The Act is amended—

(1) by inserting after the heading for part B the following:

"SUBPART 1—EDUCATION OF ALL HANDICAPPED CHILDREN";

(2) by redesignating sections 621 through 628 as sections 631 through 638, respectively;

(3) by redesignating sections 631 through 635 as sections 641 through 645, respectively;

(4) by redesignating sections 641 through 644 as sections 651 through 654, respectively;

(5) by redesignating sections 651 through section 654 as sections 661 through 664, respectively; and

(6) by adding after section 620 the following:

"SUBPART 2—EARLY INTERVENTION FOR HANDICAPPED INFANTS

"PROGRAM AUTHORIZED

"SEC. 621. (a) The Secretary shall make grants, in accordance with the provisions of this subpart, to States to carry out an early intervention program for handicapped infants.

"(b) There are authorized to be appropriated $100,000,000 for the fiscal year 1987, and for each succeeding fiscal year ending prior to October 1, 1989.

"(c) During any fiscal year in which the amount appropriated for this subpart is less than $100,000,000 each State shall be entitled to receive its allotment under this subpart if the Secretary determines that the State is making a good faith effort to comply substantially with the provisions of this subpart.

"ALLOTMENT TO STATES

"SEC. 622. (a)(1) From the sums appropriated to carry out this subpart for any fiscal year, the Secretary shall reserve 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) From the remainder of such funds the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of eligible handicapped infants served to the number of such infants served by all States, except that no State shall receive less than 0.5 per centum of such remainder.

"(b) If any State elects not to receive its allotment under this part, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with subsection (a) of this section.

"ELIGIBILITY

"SEC. 623. In order to qualify for assistance under this subpart in each fiscal year, a State shall demonstrate to the Secretary that the State has—

"(1) met the eligibility requirements of section 612;

"(2) a State plan approved under section 613;

"(3) a State Early Intervention Council which meets the requirements of section 624(a) for the purpose of ensuring that the State provides a comprehensive system of early intervention for handicapped infants;

"(4) beginning two years after the date of enactment of this subpart, a comprehensive early childhood plan for services to handicapped children from birth to age five, inclusive, which address service delivery to all handicapped infants and includes the transition school;

"(5) beginning two years after the date of enactment of this subpart, a statewide comprehensive system of early intervention services available to serve all handicapped infants; and

"(6) a State agency administration which meets the requirements of section 624(b).

"EARLY INTERVENTION COUNCIL; STATE ADMINISTRATION

"SEC. 624. (a)(1) The Governor shall appoint an Early Intervention Council which shall be composed of members who represent each public agency within the State providing services to handicapped infants including the grant recipient under section 627 and one member representing the Governor.

"(2) The Early Intervention Council shall—

"(A) identify the sources of fiscal and other support for services for early intervention programs and ensure that each State agency is making a financial contribution to support;

"(B) promote the development of formal interagency agreements for services for handicapped infants;

"(C) assist the State agency in the development of and approval of the comprehensive early childhood plan for handicapped infants and the application for assistance under this subpart;

"(D) ensure that the application for assistance under this subpart is coordinated with grants awarded in the State under section 627;

"(E) disseminate information regarding early intervention programs; and

"(F) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs operated within the State for handicapped infants.

"(3) The report required by clause (E) of this subsection shall include recommendations on the appropriate use of Federal and State funds, together with a statement of statewide policy for the early intervention program for handicapped infants within the State.

"(4) A summary of the data required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

"(5) The Early Intervention Council required by this section shall meet at least quarterly in each fiscal year.

"(b)(1) The Governor shall establish or designate a State agency for the purpose of administering this subpart in accordance with the provisions of this subsection. In carrying out this paragraph, the Governor may designate the State educational agency, the mental health agency, the mental retardation agency, a State health or social service agency, or a State Early Intervention Council.

"(2) The agency designated under paragraph (1) shall have responsibility for the general administration, supervision, and monitoring of the comprehensive system of early intervention services for handicapped infants within the State including the delivery of services to such infants. The State agency shall also be responsible either directly or by contract or other agreement with other agencies or organizations for coordinating multidisciplinary referrals of handicapped infants, conducting indepth assessments of such infants, and coordinating early intervention services for handicapped infants within the State.

"(c)(1) The Governor shall appoint an advisory panel to the Early Intervention Council consisting of individuals involved in or concerned with the needs of handicapped infants, including but not limited to parents, educators, rehabilitation specialists, social workers, medical experts, and psychologists, as well as one member of the State Advisory Council on Special Education, one member of the Developmental Disabilities Council, and one representative of the Parent Training Center established under part D of this Act.

"(2) The advisory panel shall—

"(A) advise the Early Intervention Council of unmet needs within the State in early intervention of handicapped infants;

"(B) comment publicly on the status of early intervention programs; and

"(C) make such recommendations to the Early Intervention Council as the advisory panel considers appropriate.

"PROGRAM COMPONENTS

"SEC. 625. (a) Each State shall develop and carry out a comprehensive plan to serve handicapped infants in accordance with the provisions of subsections (b), (c), and (d).

"(b) The State has or will establish an early intervention services program serving all handicapped infants from birth to age two, inclusive, within the State.

"(c) Each handicapped infant shall have—

"(1) a multidisciplinary assessment of individual needs and services required to meet such needs;

"(2) an individualized program plan developed by a multidisciplinary team, including the parent describing necessary services which may include but is not limited to—

"(A) special education;

"(B) speech and language therapy;

"(C) occupational therapy;

"(D) physical therapy;

"(E) psychological services;

"(F) health services;

"(G) parent and family support services; and

"(H) social services; and

"(3) access to all services described in the early intervention program plan without cost to the parent or guardian.

"(d)(1) Each individualized program shall be reviewed at least annually.

"(2) Services under the individualized program shall be provided by qualified personnel.

"(3) The individualized program shall include provisions which support the transition of handicapped infants to services provided under subpart 1 of this part.

"APPLICATION

"SEC. 626. (a) Each State meeting the eligibility requirements set forth in section 623 and desiring to participate in the program under this subpart shall submit an application to the Secretary through the Early Intervention Council at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(b) Each such application shall—

"(1) specify the role and financial contribution of each State agency providing services to handicapped infants;

"(2) describe the services which shall be available to handicapped infants and their families;

"(3) describe the procedures used to identify and serve handicapped infants;

"(4) set forth policies and procedures designed to assure that, to the extent consistent with the number and location of handicapped infants in the State, provision is made for the participation of such infants in the program assisted or carried out under this subpart by providing for such children community based early intervention services;

"(5) provide assurances that Federal funds made available under this subpart (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the purposes described in this subpart and in no case to supplant such State and local funds; and

"(6) provide assurances that the State will not expend more than 10 per centum of its allotment on administrative costs of carrying out the early intervention services for which assistance is sought.

"PLANNING AND DEVELOPMENT GRANTS

"SEC. 627. (a) The Secretary shall make one of the following types of grants to each State through the State agency for services for which handicapped children aged birth through 5 are eligible. Grants under this section may be made to any State which submits an application which meets the requirements of this section:

"(1) PLANNING GRANT.—A grant for a maximum of two years for the purpose of assessing needs within the State and establishing a procedure and design for the development of a comprehensive early childhood State plan which includes parent participation and training of professionals and others.

"(2) DEVELOPMENT GRANT.—A grant for a maximum of one year for the purpose of developing a comprehensive early childhood State plan, and gaining approval of the plan from the State educational agency, the Secretary of Education, or other designated official of the appropriate State agency.

"(3) IMPLEMENTATION GRANT.—A grant for a maximum of one year for the purpose of implementing and evaluating the comprehensive early childhood State plan.

"(b) Each State educational agency or other State agency desiring to receive a grant under this subsection shall submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary. Each such application shall contain assurances and evidence that—

"(1) The State agency receiving the grant will coordinate with other appropriate State agencies (including the State educational agency) in carrying out the grant.

"(2) The State plan will address the early intervention and the special education and related service needs of all handicapped children from birth through five years of age with special emphasis on children who are often not identified and children who are not now served.

"(3) The State plan will be closely coordinated with child-find efforts under section 612(2)(C) and with preschool incentive grant activities under section 619 of this Act.

"(c) The Secretary shall include in the annual report under section 618 of this Act the following:

"(1) The States and State agencies receiving grants under this subsection and the types of grants received.

"(2) A description of the activities in each State being undertaken through grants under this subsection.

"(3) Beginning in fiscal year 1987, in consultation with the National Council on the Handicapped a description of the status of early intervention programs for handicapped children from birth through five years of age (including children receiving services through Head Start, Developmental Disabilities Program, Maternal and Child Health Services, Mental Health/Mental Retardation Agency Services, and State child-developmental centers and private agencies under contract with State agencies or local schools).

"(d) Any planning or development grant application submitted pursuant to section 623(b) prior to the date of enactment of the Education of the Handicapped Amendments of 1986 shall qualify for a grant under this section.

"RESTRICTION

"SEC. 628. Nothing in this subpart shall be construed—

"(1) to permit the State to reduce medical assistance available, or to alter eligibility, under title XIX of the Social Security Act, relating to medicaid, for handicapped infants within the State; and

"(2) to encourage the reduction in benefits paid under other public or private insurance coverage.

"APPLICABILITY OF CERTAIN PROVISIONS OF LAW

"SEC. 629. The provisions of sections 615, 616, 617, 618, and 620 of this Act shall apply to the program authorized by this subpart, except that any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 623(b).".

(b) CONFORMING AMENDMENTS.—(1) Section 601(c) of the Act is amended by inserting before the period at the end thereof a comma the following: "and to assure that all handicapped infants have available to them a free appropriate early intervention program designed to meet their unique needs".

(2) Section 602(a) of the Act is amended by inserting after paragraph (1) the following new paragraph:

"(2) The term 'handicapped infants' means individuals from birth to age two, inclusive, who are substantially developmentally delayed or children with specific congenital conditions who by reason thereof require early intervention.".

(3) Section 602 of the Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) For the purpose of subpart 2 of part A of this title—

"(1) the term 'early intervention' means a program of services including special education services, social services, and health services but the term does not include surgery or hospitalization;

"(2) the term 'Early Intervention Council' means the Council established in accordance with the provisions of section 623(a);

"(3) the term 'Governor' means the chief executive of any State; and

"(4) the term 'State agency' means the State agency established or designated in accordance with section 623(b).".

(4)(A) Section 611(a)(1) of the Act is amended by striking out "part" and inserting in lieu thereof "subpart".

(B) Section 611(g)(1) of the Act is amended by striking out "part" and inserting in lieu thereof "subpart".

(C) Section 612 of the Act is amended—

(i) by striking out "part" in the matter preceding paragraph (1) and inserting in lieu thereof "subpart"; and

(ii) by striking out "part" in paragraph (6) and inserting in lieu thereof "subpart".

(D) Section 613 of the Act is amended by striking out "part" each time it appears and inserting in lieu thereof "subpart" each such time.

(5) Section 619(c) of the Act is amended by striking out ", and for providing special education and related services for handicapped children from birth to three years of age".

REGIONAL RESOURCE CENTERS

SEC. 6. Section 631(a) of the Act (as redesignated by this Act) is amended—

(1) by inserting after "special education" in clause (1) a comma and the following: "physical education,"; and

(2) by inserting after "special education" in clause (2) a comma and the following: "physical education,".

SERVICES FOR DEAF AND BLIND YOUTH

SEC. 7. Section 632(a)(2)(ii) of the Act is amended by inserting after "education" the following: "physical education".

EARLY INTERVENTION AND PRESCHOOL SERVICES FOR HANDICAPPED CHILDREN

SEC. 8. (a) GENERAL AUTHORITY.—Section 633(a)(1) of the Act (as redesignated by this Act) is amended to read as follows:

"SEC. 633. (a)(1) The Secretary is authorized to arrange by contract, grant, or cooperative agreement with appropriate public agencies, institutions of higher education (including university affiliated facilities program under the Developmental Disabilities Act of 1984 and the satellite network of the developmental disabilities program and the research and training centers under the Rehabilitation Act of 1973 specifically designed to address the needs of handicapped infants), and other appropriate nonprofit organizations for—

"(A) the development and operation of programs of experimental early intervention for traditionally unserved handicapped infants and their families;

"(B) preservice and inservice training of personnel including volunteers and paraprofessionals as well as physicians, nurses, occupational and physical therapists, educators, psychologists, social workers, speech and language pathologists, and administrators in early intervention practices; and

"(C) research pertaining to the intellectual, emotional, physical, social, and language development of handicapped children including investigations of the cost effectiveness of various approaches to service delivery.".

(b) SPECIAL RULE.—Section 633(a)(3) of the Act is amended by adding at the end thereof the following: "In carrying out the provisions of this Act, the Secretary shall, due to the over representation of native Hawaiians in statistical reports of children with handicaps, make a grant under paragraph (1) of this subsection within the State of Hawaii to address the needs of native Hawaiian children with handicaps. The grant made under the previous sentence shall be in addition to any other grant which may be made to Hawaii under this section.".

(c) RESERVATIONS.—(1) Section 633(b) of the Act is amended to read as follows:

"(b)(1) Not less than 10 per centum of the funds available in any fiscal year for purposes of this section shall be available for the provision of training and technical assistance for States preparing to receive or receiving grants under subpart 2 of part B.

"(2) Not less than 10 per centum of the funds available in any fiscal year for the purposes of this section shall be used for research pertaining to the intellectual, emotional, physical, social, and language development of handicapped infants and children, including studies providing information on various cost-effective approaches to service delivery as well as the impact and effectiveness of early intervention programs.".

(2) Subsection (c) of section 633 of the Act is repealed.

(d) TECHNICAL AMENDMENT.—The heading of section 633 of the Act is amended to read as follows:

"EARLY INTERVENTION AND PRESCHOOL SERVICES FOR HANDICAPPED CHILDREN".

RESEARCH, INNOVATION, TRAINING, AND DISSEMINATION ACTIVITIES

SEC. 9. (a) SPECIAL RULE.—Section 634(a) of the Act (as redesignated by this Act) is amended—

(1) by inserting before the semicolon in clause (1) the following: "including the needs of native Hawaiians and other native pacific basin individuals where there is a disproportionate overrepresentation of children and youth with handicaps";

(2) by inserting before the semicolon in clause (2) the following: "and to native Hawaiian and pacific basin handicapped children and youth"; and

(3) by inserting before the semicolon in clause (3) the following: "and for programs serving native Hawaiian and other native pacific basin handicapped children".

(b) SEVERELY HANDICAPPED SPECIAL RULE.—Section 634(c) of the Act is amended by inserting before the period the following: "including severely handicapped native Hawaiian and other native pacific basin children and youth".

SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTHS

SEC. 10. (a) NEW ACTIVITIES.—Section 636(b) of the Act (as redesignated by this Act) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively, and

(2) by inserting after clause (4) the following new clause:

"(5) specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation;".

(b) CONDITIONS FOR PROJECTS.—Section 636(d) of the Act is amended to read as follows:

"(d) Projects funded under this section shall—

"(1) be coordinated with other State agencies providing services for which the student is eligible;

"(2) provide individual transition plans for students served by projects funded under this section; and

"(3) to the extent appropriate provide for the direct participation of handicapped students and the parents of such students in the planning, development, and implementation of such projects.".

AUTHORIZATION OF APPROPRIATIONS FOR PART C

SEC. 11. Section 638 of the Act (as redesignated by this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 638. (a) There are authorized to be appropriated to carry out the provisions of section 631 $6,700,000 for the fiscal year 1987, $7,100,000 for the fiscal year 1988, and $7,500,000 for the fiscal year 1989.

"(b) There are authorized to be appropriated to carry out the provisions of section

632 $15,900,000 for the fiscal year 1987, $16,800,000 for the fiscal year 1988, and $17,800,000 for the fiscal year 1989.

"(c) There are authorized to be appropriated to carry out the provisions of section 633 $17,600,000 for the fiscal year 1987, $18,600,000 for the fiscal year 1988, and $19,700,000 for the fiscal year 1989.

"(d) There are authorized to be appropriated to carry out the provisions of section 634 $5,300,000 for the fiscal year 1987, $5,600,000 for the fiscal year 1988, and $5,900,000 for the fiscal year 1989.

"(e) There are authorized to be appropriated to carry out the provisions of section 635 $5,900,000 for the fiscal year 1987, $6,200,000 for the fiscal year 1988, and $6,600,000 for the fiscal year 1989.

"(f) There are authorized to be appropriated to carry out the provisions of section 636 $7,300,000 for the fiscal year 1987, $7,700,000 for the fiscal year 1988, and $8,100,000 for the fiscal year 1989.".

GRANTS FOR PERSONNEL TRAINING

SEC. 12. (a) PRIORITY.—Section 641(a) of the Act is amended—

(1) by inserting "(A)" after paragraph (4);

(2) by adding at the end thereof the following new subparagraph:

"(B) Whenever possible, the Secretary shall give priority to applications from States with areas where shortages exist.".

(b) PARENTAL TRAINING SPECIAL RULES.—(1) Section 641(c)(1) of the Act (as redesignated by this Act) is amended by inserting at the end thereof the following new sentence: "One such grant shall be made to a nonprofit agency serving the needs of native Hawaiians. This grant shall be in addition to and not in place of any other parent training grant made to an agency in the State of Hawaii.".

(2) Section 641(c)(4) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall give priority to grants under this subsection which involve new programs.".

(3) Section 641(c)(6) of the Act is amended by adding at the end thereof the following new sentence: "Staff personnel of parent training and information programs may assist parents directly in activities under section 615.".

GRANTS FOR TRAINEESHIPS

SEC. 13. Section 642 of the Act (as redesignated by this Act) is amended—

(1) by striking out "to State educational agencies" and inserting in lieu thereof "to each State educational agency"; and

(2) by striking out "teachers" each time it appears and inserting in lieu thereof "personnel serving".

GRANTS TO IMPROVE RECRUITMENT OF EDUCATIONAL PERSONNEL

SEC. 14. (a) PHYSICAL EDUCATION.—Section 643(a)(2) of the Act is amended by inserting after "education" a comma and the following: "including physical education,".

(b) TRANSITIONAL SERVICES.—Section 643(b) of the Act is amended by inserting after "available" the following: "transitional services and programs as well as".

AUTHORIZATION OF APPROPRIATIONS FOR PART D

SEC. 15. (a) GENERAL.—Section 645(a) of the Act (as redesignated by this Act) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out the provisions of this part (other than section 643) $70,400,000 for fiscal year 1987 and $74,500,000 for fiscal year 1988, and $79,000,000 for fiscal year 1989. There are authorized to be appropriated to carry out the provisions of section 643, $1,200,000 for fiscal year 1987, $1,400,000 for fiscal year 1988, and $1,500,000 for fiscal year 1989.".

(b) RESERVATION.—Section 645 of the Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in clauses (A) through (E) of section 641(a)(1).".

(c) TECHNICAL AMENDMENT.—Section 645(c) of the Act (as redesignated by subsection (b) of this section) is amended by striking out "section 631(c)" and inserting in lieu thereof "section 641(c)".

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 16. (a) USES SPECIAL RULE.—Section 651 of the Act (as redesignated by this Act) is amended by—

(1) redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively, and

(2) by adding after subsection (a) the following new subsection:

"(b) Not less than 5 per centum of the funds made available in any year for the purpose of this section shall be used to address the needs of underserved secondary school-aged handicapped youth.".

(b) ADDITIONAL ACTIVITIES.—Section 651(a) of the Act is amended by adding after paragraph (5) the following new paragraph:

"(6) The development of program models and demonstrations for native Hawaiian Handicapped children and youth by an educational agency providing comprehensive elementary and secondary educational services to native Hawaiians. A grant contract or cooperative agreement under this section shall be in addition to and not in place of any other grant made to other Hawaiian public or private agencies under this part.".

AUTHORIZATION OF APPROPRIATIONS FOR PART E

SEC. 17. Section 654 of the Act (as redesignated by this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 654. For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1987, $19,000,000 for fiscal year 1988, and $20,100,000 for fiscal year 1989.".

INSTRUCTIONAL MEDIA

SEC. 18. (a) THEATER.—Section 661(a)(1)(B) of the Act (as redesignated by this Act) is amended by inserting after "films" the following: "and through theater".

(b) MEDIAN TECHNOLOGY.—Section 651(a)(2) of the Act is amended by inserting after "media" each time it appears a comma and the following: "material and technology".

(c) NATIONAL THEATER OF THE DEAF.—Section 652 of the Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary is authorized to make grants to or enter into contracts or cooperative agreements with the National Theater of the Deaf for the purpose of providing theatrical experiences to—

"(1) enrich the lives of deaf children and adults,

"(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf people, and

"(3) promote the integration of hearing and deaf people through shared cultural experiences.".

AUTHORIZATION OF APPROPRIATIONS FOR PART F

SEC. 19. Section 664 of the Act (as redesignated by this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 664. For the purpose of carrying out this part, there are authorized to be appropriated $18,500,000 for fiscal year 1987, $19,600,000 for fiscal year 1988, and $20,800,000 for fiscal year 1989.".

REPEAL

SEC. 20. Section 604 of the Act is repealed.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. KERRY. Mr. President, today I rise to join with my distinguished colleague from Connecticut in introducing legislation to reauthorize the discretionary programs under the Education of the Handicapped Act. The act has proven its value over the years by integrating our disabled children into their schools and communities, and allowing them an opportunity to participate in a way that was impossible only a decade ago. And today I am proud to be a partner in sponsoring legislation that adds to the act by further expanding educational services for handicapped children. Today's reauthorization package reflects thoughtful input and consultation from experts across the country. This is genuinely demonstrated in the clear intent of the bill which is to improve our educational system in a manner that increases the developmental and learning potential of handicapped children, contributing to their full growth into adulthood.

This reauthorization increases that goal by providing for early childhood intervention which has proven highly effective. Our bill mandates services for children beginning at age 3. It allows for State and local flexibility so that existing programs may be continued and new ones will have the support necessary to provide the early intervention needed by "at risk" children. Recent research has indicated that this timely assistance makes a critical difference in educational progress of "at risk" children. In order to understand the overwhelming need for early childhood intervention, one only has to point to the fact that in the past decade, the number of handicapped preschoolers has increased by over 30 percent. Just last year, over 250,000 preschoolers were given educational services and this is but a fraction of the overall number of children who need these services. Currently only 19 States mandate services to all 3-to-5-year-olds. Yet, over 30 States cover a portion of this age category. The reauthorization not only mandates early childhood services nationwide and provides a reimbursement

formula which covers the services, but it also amends the existing allotment formula to ensure that States will no longer be penalized for serving additional children.

The discretionary programs provide a critical support system to upgrade the service received by the more than 4 million children nationwide who are in special education programs. These programs provide new authority for early childhood research and personnel preparation. Interagency coordination and transition plans for students are required for the secondary transition programs. This assures that handicapped students enter the adult level of the community with the support and aid they require. Personnel preparation programs target areas of shortage, priority status is given to the establishment of parent training centers and staff is specifically permitted to assist parents in due process hearings. The appropriateness of physical education is stressed in several programs. The bill includes monitoring and complaint investigation in the administrative cost set-aside which realistically reflects school district needs.

Embodied in this legislation is the essential principle that the Federal Government has a critical role in devising a progressive and responsible approach to create an effective system designed to promote education for all handicapped children. These provisions, combined with past novel approaches implemented under the Education of the Handicapped Act, have allowed millions of children to maximize their potential, despite their handicap.

Mr. President, our bill builds on the existing mechanism and helps further integrate our disabled children into their schools and communities, helps their parents and families understand what resources are available to them, and establishes research and training so that future innovations can be encouraged to assist our handicapped youth.

Over the years, the Congress had made a commitment to our handicapped children and our proposal further strengthens this commitment in a manner that enhances the lives of disabled youth throughout our society.●

Mr. STAFFORD. Mr. President, I am pleased to join with Senator WEICKER as an original cosponsor of S. 2294, the Education of the Handicapped Amendments of 1986. It has been 10 years since this landmark legislation was first enacted by the Congress. In that time, countless school districts have opened their doors to handicapped children who were previously denied a free and appropriate public education. Approximately 10 percent of the children attending public schools receive special education services that are paid for in part by Federal funds. Children with every kind of disability have taken their rightful places in their neighborhood schools. Handicapped young adults are now graduating from our public schools, with educational attainments, employment skills, and the expectation that they will live and work independently in the mainstream of their communities. That is remarkable progress for a decade. The task, however, is far from complete. Unemployment figures among disabled adults are as high as 60 percent. Many adults who would choose to live independently must remain in institutional or family settings because local alternatives are not available. I do not mention these facts to be discouraging. Rather, they reinforce the importance of the mandate that Public Law 94-142 has provided.

Senator WEICKER is to be congratulated for the new initiatives included in this legislation which will bring services to handicapped children from birth. It is well-documented that early intervention equates to less expensive programming for handicapped children once they are school-aged. By encouraging local school districts to intervene in the lives of handicapped youngsters at birth instead of ages 5 or 6, we are increasing the likelihood that these children will leave school and enter the workplace with adequate skills and self-esteem to be wage-earning, taxpaying citizens. This initiative represents a major step toward achieving the ultimate goal of full integration of handicapped children and adults in society.

RECOGNITION OF SENATOR CRANSTON

The PRESIDING OFFICER. The Senator from California is recognized.

THE GENERAL MOTORS PRICE INCREASE

Mr. CRANSTON. Mr. President, whenever anyone mentions automobiles, a lot of people automatically think of California.

Cars may be an important part of life, even an essential part of life, everywhere in the United States.

But in California, cars are a way of life.

We have over 14 million passenger cars on the road—far more than any other State.

We have 26 million people—also more than any other State.

And at any one time, more than 1 million Californians are in the market for a new car.

That is why the news that the price of General Motors cars are going up an average of 2.9 percent today comes as such a shock to this Senator from California.

What is General Motors thinking of? Or are they not-thinking at all?

General Motors and the American automotive industry have been pushing Congress for protectionist legislation, complaining that they are being beaten by foreign competitors.

And they are being beaten—with the possible exception of Chrysler.

Twenty-five percent of the new cars sold in the United States in 1984 were foreign imports—mostly Japanese.

Fifty percent of the new cars sold in California that year were foreign imports—mostly Japanese.

And now, when their No. 1 competitor has boosted its prices because of the increase in the exchange rate of the yen, what does General Motors do?

Does GM cut its prices to become more competitive and try to win back some of the American market it has lost?

Does it at the very least hold the line on the price of GM cars?

No, GM raises its prices.

Someone once said that what is good for General Motors is good for the United States.

I never could make much sense out of that.

General Motors' price increase is not good for the United States.

What is good for the United States is to reduce our trade deficit by producing better cars at lower cost.

That is good for the American consumer.

And it could even be good for General Motors.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 1 p.m., with statements therein limited to 5 minutes each.

THE W.M. KECK OBSERVATORY: TO SEE THE BEGINNING OF TIME

Mr. CRANSTON. Mr. President, I am very pleased that my colleague, Senator Matsunaga, has agreed to introduce legislation on behalf of the University of California, Caltech, and the University of Hawaii, to premit the duty-free entry of essential telescope components for installation in the W.M. Keck Observatory under construction on Hawaii's Mauna Kea.

The Keck telescope, when it is completed in 1992, will be the world's most powerful telescope, powerful enough to see a single candle at the distance of the Moon.

This marvelous instrument will function as a time machine peering 12 billion years into the past nearly three-quarters of the way to the birth of the

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universe, according to Caltech scientists.

The Keck telescope will measure 10 meters across compared to the well-known 5-meter hale telescope on Palmar Mountain. The final mirror assembly will consist of 36 hexagonal segments each individually controlled by a computor making 300 corrections a second to a tolerance of 3.75 nanometers. The Keck telescope will be enhanced by additional technological developments which will mean a 600-fold increase in productivity over present telescopes.

The bill which Senator Matsunaga is introducing will permit the duty-free entry of mirror components manufactured in West Germany. The duty-free entry provision is necessary because the telescope must be imported in components parts. Ironically, if the telescope were imported as a unit, it could enter duty-free.

I urge my colleagues on the Finance Committee to act promptly on this matter and to my colleagues in the Senate, I ask their wholehearted support of this significant contribution to an important scientific effort.

I ask unanimous consent that an article describing the project which appeared in the Caltech publication, Engineering & Science, be printed in the RECORD together with correspondence between California Institute of Technology and the U.S. Customs Service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Engineering & Science, January 1985]

THE W.M. KECK OBSERVATORY

It will be powerful enough to see a single candle at the distance of the moon. But the Keck Telescope won't be lookng at anything so mundance as the moon. Its faceted eye will look at the center of the galaxy to see if there's a black hole there. It will look at the clouds of hot gas that are the birthplace of stars. It will function as a time machine, peering 12 billion years into the past three-quarters of the way to the birth of the universe. When construction is complete in 1992, this telescope, the most powerful in the world, will be set to answer fundamental questions in the fields of optical and infrared astronomy.

And it will do so from a most unworldly landscape—the remote high ridge of an extinct volcano already dotted with the white domes of observatories. Perched at the 13,600-foot level on Hawaii's Mauna Kea (White Mountain), a site that has some of the best "seeing," astronomically speaking in the world, the Keck Telescope will be the culmination of a 15-year, $85 million project to design and build the premier weapon in the astronomical arsenal.

With the largest private gift ever made for a single scientific enterprise—$70 million from the W.M. Keck Foundation—Caltech will provide most of the funds for the observatory's construction. The University of California, whose scientists began designing the ten-meter telescope in 1977, will provide funds for the scope's continuing operation. Observation time will be split evenly between UC and Caltech astronomers, with a fraction of the time going to astronomers from the Universtiy of Hawaii, which is providing the site.

The observations these scientists will make should help answer some of the most perplexing of astronomical riddles. One of these involves the large-scale structure of the universe. Galaxies cluster in groups ranging from small ones only a million light years across, to superclusters, which span nearly a billion light years. Scientists link the small and medium-sized galactic clusters to tiny density irregularities arising among fundamental particles during the Big Bang. But they find the superclusters much more difficult to explain. Some scientists believe that superclusters owe their existence to primordial fluctuations in the density of as-yet-unidentified elementary particles, so particle physicists are vitally interested in the results of these studies as well.

Often superclusters occur in enormous filaments or chains, and the details of these structures that the telescope will reveal may provide important clues to their orign. Computer simulations indicate that the clustering process continues to this day. The ten-meter telescope will be able to trace this back in time by capturing light that's been traveling our way for billions of years. Present day telescopes, like the five-meter (200-inch) Hale Telescope on Palomar Mountain, are just barely able to make out then most distant (and hence the oldest) galaxies, but they can't collect enough light from them to determine their redshifts, a measure of astronomical distance. (The further away an object is, the faster it recedes from us. The faster it recedes, the further its light is shifted to the red end of the spectrum.) Redshift information is indispensable in mapping the structure of these ancient clusters. The ten-meter telescope, with its huge light collecting area, is admirably suited for this sort of work.

The telescope may also provide a solution to one of the major problems in astronomy—the question of why, where, and how stars form. Thick clouds of dust obscure most star-forming regions. But though the dust blocks visible light, infrared light gets through and the ten-meter telescope will be the biggest infrared instrument in the world, with a resolution three times that of its nearest competitor. The ten-meter telescope will be able to differentiate actual stars from nearby clumps of dust that scatter light and mimic stars. It will also be able to separate one nascent star from another in these densely packed areas. And the telescope may help solve the mystery within a mystery of certain small, young stars, which come into being as the result of an unknown mechanism operating outside the usual star-forming regions.

The telescope's infrared capabilities make it an ideal source of information about our galactic center, which is also obscured by layer upon layer of dust. Studies to date indicate that this is a most peculiar region, containing remnants of supernovae as well as chaotically moving clouds of ionized gas. Many astronomers believe that these constitute the gravitational signature of a black hole located precisely at the center of Milky Way galaxy. The Keck Telescope will peer through the dust, searching for the high velocity regions that will distinguish a black hole from a compact star cluster, the other major candidate for the structure at the galactic center.

One technique that will be applied to the telescope is known as Multiple Object Spectroscopy (MOS), a process in which the spectra of as many as 100 objects from a single field of view are obtained simultaneously. One of the advantages of MOS is a lengthening of the maximum tolerable exposure. An astronomer may be willing to invest 10 or even 20 hours in a single exposure if 100 good-quality spectra will result. In other words MOS, coupled with the great light-gathering power of the ten-meter telescope, will mean a 600-fold increase in productivity over present telescopes.

Despite the Keck Telescope's high resolution, when construction is completed in 1992 it will not be the highest resolution instrument in use. The Hubble Space Telescope, scheduled for launch by the Space Shuttle in 1986, will have a resolution ten times better than any ground-based instrument because of its freedom from atmospheric blurring. The Space Telescope will also have advantages in ultraviolet spectroscopy (since most ultraviolet light is filtered by the ozone layer) and in certain parts of the infrared region that are attenuated by atmospheric water vapor. But the Space Telescope's primary mirror is only 2.4 meters in diameter. At more than 4 times the diameter and 17.4 times the area, the ten-meter mirror will be better able to provide the large amounts of light demanded by the exacting requirements of spectroscopy. Spectroscopy is needed in quantitative astrophysical studies to determine abundances of the constituents of stars and galaxies, as well as to determine redshifts. The two telescopes will therefore complement each other. The ten-meter telescope will often be used to conduct detailed spectrographic studies of objects first discovered or imaged by the Space Telescope.

Designing a ten-meter telescope, which must have a virtually perfect 76-square-meter optical surface, requires much more than merely scaling up a five-meter mirror like the one at the Palomar Observatory. According to University of California astronomer Jerry Nelson (Caltech BS 1955), who headed the design team, scaling these designs up by a factor of two introduces a number of formidable problems, most of them associated with the primary mirror itself. A ten-meter mirror blank has never been made, and even if it were possible, its cost would be enormous. Polishing such a blank would take a very long time and require extremely large and expensive machinery.

Perhaps even more difficult is the problem of properly supporting the mirror against the force of gravity, since the deflections of a ten-meter mirror are 16 times those of a five-meter mirror. These deflections must be limited to about a thousandfold less than the thickness of a human hair, says Nelson. Such a large mirror would require a massive telescope structure and a dome of enormous proportions, leading, again, to unacceptable costs.

To avoid these difficulties, the telescope's designers have developed a primary mirror design composed of a mosaic of 36 hexagonal mirror segments only 1.8 meters in diameter. Many of the problems are thus reduced to those of a 1.8-meter telescope. This allows a much lighter mirror, and modern computer-aided structural design tools have also made an extremely lightweight telescope structure possible. In fact, at 158 tons, the Keck Telescope will weigh less than one-third as much as the Hale Telescope.

But construction of the ten-meter telescope is not without problems of its own. Polishing the mirror is complicated by the fact that each segment is neither flat nor

symmetrical, but rather is one of six off-axis sections of a shallow paraboloid. The design team developed a method called "stressed mirror polishing" to arrive at each of the six shapes. This technique takes advantage of the ease with which opticians can polish a spherical surface. It involves first applying precisely calculated forces to a circular mirror blank, intentionally warping it. The mirror blank is then polished to a concave, spherical surface. Once the applied force is released, the mirror blank springs into the desired final shape. Its edges are then cut off to form the hexagonal outline.

During the cutting of an initial test blank, larger than desired warping occurred. This led to the idea of putting a "stressing" jig on each segment to remove the warp. This dewarping method, whose feasibility has been demonstrated, may also lead to a faster mirror production by allowing more relaxed tolerances during the polishing phase.

These difficulties in polishing the hexagonal segments are minor compared to the problem of polishing a single large mirror. But the multi-segment approach introduces other problems. A single mirror could be held steady in a rigid but passive support. But a system of multiple mirrors must be continually realigned, since the forces that tend to disrupt the aim (gravity, wind, and heat are the most important of these) act differently at each mirror location and change over time. Each segment, therefore, has edge displacement sensors on its back surface that bridge the gaps between one segment and its neighbors. If one segment should move relative to another, these sensors will send a signal to the computer control system. The computer will then make the necessary corrections by adjusting the three actuator pistons that support each segment. In order to maintain a sufficiently stable image, the computer will make such corrections 300 times a second to a tolerance of 3.75 nanometers. In this way the 36 segments, each individually controlled, with constitute, for all intents and purposes, a single mirror.

Light falling on this mirror will be directed to the telescope's six focal points, where various instruments such as cameras, spectrographs, photometers, and polarimeters will be housed. The designers have deferred decisions on the exact specifications of many of these instruments because of the rapid pace of technological advance. Light detectors in particular are currently undergoing dramatic improvements in sensitivity coupled with decreases in size, and these characteristics are fundamental starting points in some instrument designs. This flexibility to take advantage of the latest advances in instrument and detector technology is a further advantage ground-based telescopes have over space platforms.

But even a telescope in the best location in the world can have its seeing degraded by thermal inhomogeneities causing local atmospheric turbulence. Experience has shown astronomers that, ironically, the most damaging source of such turbulence is often the observatory itself. Ideally, all parts of the telescope would maintain the same temperature as the surroundings, but in practice this is not possible. To minimize damaging temperature gradients the designers will take a number of steps. These include painting the dome with a special, heat-reflective paint; actively controlling the temperature of the dome floor so that this massive structure will be neither a source nor a sink of heat; and locating much of the heat-producing electronic equipment in the heavily insulated observatory building.

This one-story building will contain the control room, offices, a library, and mechanical and electrical shops, including an aluminizing facility where the mirrors will be cleaned and resurfaced. Some of these rooms will be supplemented with oxygen, since the atmosphere at 13,600 feet contains only 60 percent of the oxygen present at sea level. This low oxygen level significantly degrades a person's mental and physical performance, but often people don't notice this reduction in performance soon enough. Several of the other observatories on Mauna Kea provide masks and bottle oxygen to their personnel, but although this is a much less costly option than oxygenating whole rooms, studies show that these aids are underused. The supplemental oxygen will not provide a sea-level environment, which would be prohibitively expensive. Instead, the oxygen levels will simulate conditions at the Hale Pohaku base camp at 9,200 feet, where the astronomers and support staff will study, eat, and sleep.

Although there's a strong tradition of astronomers making their observations while in residence at a telescope, full remote control of the Keck Telescope will be possible. This will allow astronomers to make their observations from their home offices around the world, which will significantly reduce travel and housing costs. Although some astronomers may be secretly disappointed by this, since justifying a trip to tropical Hawaii will be more difficult, the fact that the temperature atop Mauna Kea is usually between 30° and 50° Fahrenheit may assuage their disappointment.

Mauns Kea is already home to a number of major observatories including the Canada-France-Hawaii 3.6-meter telescope, the NASA 3.0-meter Infrared Telescope Facility, the United Kingdom 3.8-meter Infrared Telescope and the University of Hawaii 2.2-meter telescope. In addition, the Caltech 10.4-meter telescope for submillimeter wavelengths and a United Kingdom-Netherlands 15-meter telescope for millimeter-wave observations are under construction. Caltech scientists anticipate that the Keck Telescope will be linked to the 10.4-meter telescope to form a 400-meter-baseline interferometer at submillimeter wavelengths. This will allow them to examine sites of star formation, for example, in unprecedented spatial detail.

Future hopes for the site call for the construction of a second, identical ten-meter telescope that may be used in conjunction with the first to perform optical interferometry. The effective resolving power of such tandem observations, with both telescopes trained on the same area of the sky, would be equivalent to that of a telescope having a single mirror with a diameter equal to the distance between the two scopes. No funds have yet been raised for the second telescope, which could cost an additional $60 million.

Even without its twin, the Keck ten-meter telescope will be the source of significant advances in astronomical knowledge for decades to come. Considered together with the Hubble Space Telescope and a number of other observatories that may come on line within the next decade, the Keck Observatory will set the stage for possibly the fastest increase in our understanding of the cosmos since the time of Galileo.

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, December 17, 1985.

Refer to: DIS CO:R:R:D 85-573327 DLD.

G.M. SMITH, *Project Manager,*
W.M. Keck Observatory Project, California Institute of Technology, Pasadena, CA.

DEAR MR. SMITH: This is in response to your application of August 23, 1985, for duty-free entry under item 851.60 of the Tariff Schedules of the United States (TSUS), of astronomical telescope mirror blanks. The blanks will become part of the reflector for an optical telescope to be installed on Mauna Kea on the island of Hawaii.

It is our determination that the blanks are components within the meaning of 15 CFR 301.2(k), of the regulations of the Commerce Department and the Treasury Department. Components (other than repair components) are not eligible for duty-free treatment under this program. Therefore, we must deny your application.

Any additional facts or evidence concerning the conditions existing at the time of entry which might alter this determination may be submitted to the undersigned prior to notice of liquidation of the entry. In the absence of such a submission this determination is considered final. However, after notice of liquidation a protest may be filed in accordance with Part 174 of the Customs Regulations (19 CFR Part 174). In this regard see also 15 CFR 301.8(c) for the regulations of the Department of Commerce and the Department of the Treasury.

Sincerely,

JOHN E. ELKINS, *Chief,*
Disclosure Law Branch.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
January 17, 1986.

Ref: DIS CO:R:R:D 85-573327 DLD.

Mr. JOHN C. ELKINS,
Chief, Disclosure Law Branch, Department of the Treasury, U.S. Customs Service, Washington, DC.

DEAR MR. ELKINS: I have in hand your letter dated December 17, 1985 to G. M. Smith, Project Manager for our W. M. Keck Observatory Project. In your letter you deny our application for duty-free entry under item 851.60 of the Tariff Schedules of the United States for the astronomical telescope "mirror blanks" which we are purchasing from Schott Glass Technologies, Inc. in West Germany. These so-called "mirror blanks" will be combined to form the primary reflector (i.e. mirror) for the large (ten-meter) optical and infrared telescope to be installed on the summit of Mauna Kea on the Island of Hawaii. The primary reflector will be composed of 36 hexagonal, 1.8 meter segments, each of these to consist of one of the "mirror blanks" (further polished, of course) to be purchased from Schott Glass Technologies, Inc.

Actually, the problem here appears to be one of semantics, a problem caused by us when we described these mirrors as "mirror blanks." "Mirror blank" is clearly a misnomer. These mirrors, when received from Scott Technologies, Inc. will already have been worked and precision ground to a diameter of 1900 mm +/− .5 mm and to a thickness of 77 mm +/− .2 mm. And the surface will have been ground to form a meniscus with a radius of curvature of 35350 mm on the concave side and 35426 mm on the convex side.

Headnote 6. to part 4 (of which item 851.60 is a part) describes which "instruments and apparatus" are exempt under item 851.60. Included are the "instruments and apparatus" listed in schedule 7, part 2 (except subpart G).

Subpart A of schedule 7, part 2 clearly lists the mirrors in question (item 708.07). Thus the items for which we are requesting exemption are, in fact, a line item "instrument [or] apparatus" coming within the included class described in headnote 6.

It seems clear that anything rising to the status of a stand-alone line item in one of the exempted parts qualifies for an exemption under item 851.60. To conclude otherwise would be to change the obvious intent of Congress. These mirror blanks are not "components" of some "instrument and apparatus" listed in the schedules. They are one of those exempt items themselves. Please note that the qualifying legislative definition is "instrument and apparatus", not merely "instrument." A reference to Webster's Third New International Dictionary, 1976, will show that "apparatus" includes anything which is a "collection or set of materials, instruments, appliances, or machinery designed for a particular use." These so-called "mirror blanks" being purchased from Schott Glass Technologies, Inc. are in fact the set of mirrors which will form the primary reflector for the Keck Observatory.

I can understand why as set forth in 15 CFR 301.2(k) "components" of "instruments" or "apparatus" are not exempt. However, that quite simply is not the case here. As we have shown, these precision ground mirrors from Schott Glass Technologies, Inc. are line item "instruments and apparatus" entitled to exemption. Furthermore, the only feasible way to fabricate, ship and install a telescope of this size and complexity is in pieces. It literally would not be physically possible to build a telescope of this size and transport it across the oceans and up the mountainside intact, as contrasted with a telescope or other scientific instrument which would fit on a desk or even in a normal laboratory room or bay. This telescope must be fabricated and transported to the Mauna Kea summit in pieces and then erected and installed there. It would be totally unreasonable and a complete distortion of 15 CFR 301.2(k) to call these prime elements of the telescope "components," so as to exclude them from exemption. And there is nothing in the legislation to support such a view. For your further information, I am enclosing a copy of an article in the January 1985 issue of Engineering and Science which describes in some detail this rather incredible new telescope.

We would appreciate your prompt reinstatement and further processing of our application. The completion of this exciting new optical and infrared telescope on the top of Mauna Kea, which will be the largest such telescope in the world, is dependent upon a steady flow of these precision ground mirrors from Schott Glass Technologies, Inc. Deliveries from Scott Glass are due to begin in March 1986, so prompt action is absolutely essential.

Your cooperation will be much appreciated.

Very truly yours,

DONALD R. FOWLER,
General Counsel.

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, February 26, 1986.

Refer to: DIS CO:R:R:D 86-573689 DLD

DONALD R. FOWLER, Esq.,
Office of the General Counsel, California Institute of Technology, Pasadena, CA

DEAR MR. FOWLER: This is in response to your letter of January 17, 1986, in which you appeal the denial of December 17, 1985, of an application for duty-free entry under item 851.60 of the Tariff Schedules of the United States (TSUS), of mirror blanks for the multiple mirror telescope being erected on Mauna Kea. Duty-free entry under item 851.60, TSUS, was denied on the grounds that the mirror blanks are components as defined by 15 CFR 301.2(k) of the regulations of the Department of Commerce and the Department of the Treasury.

The mirror blanks were not ruled ineligible because they were not completely optically worked and thus did not fail within the allowable tariff schedule items, although it might, in fact, be argued that they are not optically worked. Rather, they were denied duty-free entry because they are components, and components may not enter duty-free under item 851.60, TSUS. A telescope, for example, is an instrument. The primary mirror of a reflecting telescope is an component of the telescope, that is, a necessary part of the instrument, but not itself a complete instrument. The mirrors under consideration here will be assembled into the equivalent of a primary mirror in the Keck Telescope, and therefore cannot be considered an instrument or instruments.

If the entire multiple mirror telescope were purchased from one foreign manufacturer and imported in several shipments to be assembled in the United States, the instrument could obtain duty-free treatment under this provision. However, this is not the case here. The telescope was designed by the University of California and California Institute of Technology, and parts were purchased from various foreign and domestic manufacturers. The instrument is to be constructed in the United States. Section 301.2(k), Title 15, Code of Federal Regulations, states in part, "'Components' of an instrument means parts or assemblies of parts which are substantially less than the instrument to which they relate. A component enables an instrument to function at a specified minimum level . . . Applications shall not be accepted for components of instruments . . . being manufactured or assembled by a[n] . . . entity in the U.S." Therefore, we must affirm the denial of duty-free entry for the mirrors on the basis that they are components of a larger instrument, which did not enter duty-free under tariff item 851.60, TSUS.

This determination is considered final. However, if an entry has been filed a protest may be filed after notice of liquidation in accordance with 19 U.S.C. 1514 and Part 174, Customs Regulations (19 CFR Part 174). Once an entry has been liquidated the importer has 90 days in which to file a protest.

Sincerely,

B. JAMES FRITZ,
Director, Regulations Control and Disclosure Law Division.

SENATOR DOLE DEFENDS RIGHTS OF GUNOWNERS

Mr. HATCH. Mr. President, it has come to my attention that majority leader ROBERT DOLE is the subject of a recent false and unfair attack regarding his record on gunowners' rights issues. This attack was carried out in a mailing conducted under the auspices of the Gun Owners of America. J.E. Reinke, the president of the National Rifle Association, promptly protested the mailing and in response, Bill Richardson, the founder and chairman of Gun Owners of America, has submitted a formal apology. The mailing did not go out over Mr. Richardson's signature and I am confident that he had no prior knowledge of the mailing. I request that both their letters be printed in the CONGRESSIONAL RECORD at the end of my remarks. Right now, I would like to take a few moments to present my own point-by-point response to the charges that were made in this mailing.

The fact of the matter is, Majority Leader DOLE has been a staunch advocate of the rights of gunowners.

He has been a cosponsor and strong, consistent supporter of the Federal Firearms Owners Protection Act since its original introduction in 1979. Once he became majority leader, he made the bill a top legislative priority. In July 1985, he brought the bill up on the Senate floor for the first time since it had been introduced. A few days later, the Senate passed the bill by an overwhelming vote of 79 to 15. As floor manager for that bill, S. 49, I can personally attest to the critical contribution made by the majority leader that resulted in approval of this important initiative.

But this is hardly the first time BOB DOLE has demonstrated his commitment to the rights of gunowners. In 1981, he introduced a package of amendments that in some respects went farther than the McClure bill in correcting overreaching by the 1968 Gun Control Act.

For instance, there was his amendment, enacted into law in 1982, removing .22-caliber rimfire ammunition from the Gun Control Act. He also offered an amendment, enacted into law in 1984, removing the act's restrictions on military surplus imports. These were the first progun amendments to the 1968 act to be enacted by Congress. He also sought enactment of an amendment which would have downgraded technical and bookkeeping violations of the 1968 act. This Dole proposal would have handled technical regulatory infractions with a regulatory system of civil fines rather than with Federal felony prosecutions.

Incredibly, one of the allegations made in this mailing was that BOB DOLE tried to "tax and register" guns when in fact, Senator DOLE wrote the Commissioner of Internal Revenue, at the request of the person responsible for the mailing, protesting proposed regulations and any other attempt by

the IRS "directly or indirectly to require gun registration of any sort." In response, the Commissioner wrote back stating that the "IRS has no intention of requiring firearm registration of any sort"—a commitment which so far has been kept.

The mailing also attacked possible amendments to the National Firearms Act being circulated by Senator DOLE's staff for comment which BOB DOLE has never even seen.

What's more, I have been advised that these amendments, which were given to my staff and other interested parties many months ago, were designed to head off more sweeping changes to the national act. This staff draft was designed to help gunowners in many different ways. For instance, one change would give amnesty to certain individuals acting in good faith who possess automatic weapons now required to be registered by law. Another would allow law enforcement agencies to release from their arsenals for sale to collectors surplus automatic weapons with high collectors value, such as Thompson machineguns. These kinds of changes are highly unpopular with gun control advocates, so I was quite surprised to see the mailing also opposed to Senator DOLE's staff's efforts.

Contrary to what the mailing said, the staff amendments were never written to classify all semiautomatics as machineguns. On the contrary, Senator DOLE's staff have taken great pains to ensure that the amendments could not be so interpreted. Indeed, the most recent language being circulated goes so far as to repeat weapons covered by the national act remains the same.

Finally, the letter attacks Senator DOLE for supporting the KTW bill, S. 104, and its House counterpart. The letter fails to mention that Senator DOLE was among the first to caution against an overly broad approach in dealing with this issue. In 1982, his individual views on S. 1040, the McClure bill of that year, criticized the sweeping attempts being made at that time to prohibit the manufacture and sale of certain kinds of handgun ammunition. Instead, he offered an amendment to impose mandatory prison terms for the use of this kind of ammunition during the commission of a crime. This proposal was endorsed by the Reagan administration and interested progun groups and enacted into law in 1984.

During consideration of S. 104, Senator DOLE made every effort to accommodate Senator SYMMS and supported the successful Symms amendment because it was consistent with views held by the majority leader since 1982 concerning the need to ensure that the coverage of the legislation be carefully circumscribed. It should also be emphasized that as majority leader, Senator DOLE has a responsibility to accommodate the interests of the entire Senate. When a bill passes by a margin of 97 to 1, as did S. 104, and is supported by such staunch gunowner's rights advocates as Senators MCCLURE, THURMOND, and DECONCINI, I would say the majority leader is doing his job right.

What I find very difficult to understand is why this mailing would make such charges when now, more than ever, gunowners' rights advocates need to be pulling together to get the McClure-Volkmer bill finally enacted into law. I applaud the fact that such leaders as J.E. Reinke and Bill Richardson so quickly rose to Senator DOLE's defense. Senate DOLE has been unfairly attacked and it is important that responsible gunowners speak out to ensure the record stands corrected.

Mr. President, I ask unanimous consent that, in addition to the Reinke and Richardson letters, an article which appeared in the March 29 Congressional Quarterly entitled "Miscues Costly in Politics of Obstruction" be printed in the CONGRESSIONAL RECORD. This article contains an excellent summary of Senator DOLE's contributions on behalf of gunowners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL RIFLE
ASSOCIATION OF AMERICA,
Washington, DC, March 19, 1986.

Hon. BILL RICHARDSON,
The State Capitol, Sacramento, CA.

DEAR BILL: I very much regret the need to advise you of my overwhelming sense of outrage and disappointment at the vicious, totally uncalled for attack on Senator Robert Dole by your employee, Larry Pratt—see enclosed.

I do not have the time to list all of the many outstanding contributions made by Senator Dole to the cause of the National Rifle Association and all law abiding gun owners. For the purpose of this letter, it will suffice to say that without the Majority Leader's courage and forceful leadership, we would not have seen the United States Senate pass the Firearms Owners' Protection Act in July of 1985. I would remind you that this momentous event occurred during the first year of Senator Dole's term as Majority Leader of the Senate after languishing in that body since 1979.

As a veteran member of the California State Senate you, better than most, know the critical importance of having any majority leader on your side during heated legislative debate. If it's required that a U.S. House-passed pro-gun bill be returned to the Senate for confirmation, we will all lean heavily on the advice and direction of Senator Dole. I call upon you to do everything in your power to repudiate the scurrilous attack upon the Senator by Pratt, as I feel that you personally and the Gun Owners of America will want to disassociate yourselves from Mr. Pratt as quickly as possible.

If his actions reflected only upon himself and GOA, then I would never make such a request. However, those of us who have labored long and hard to reform the 1968 Gun Control Act will, in some eyes at least, be tarred with the same brush, and I intend to advise every member of the Congress not only that Pratt speaks for a misguided few, but that the National Rifle Association denounces both the individual and his utterances.

I am sorry that I must use such harsh language, but Pratt's actions deserve no less.

Sincerely,

J. E. REINKE,
President.

GUN OWNERS INC.,
Sacramento, CA, March 25, 1986.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: I would like to apologize for some copy written by one of my employees in a recent Gun Owners newsletter. It was intemperate and ill-advised. It assuredly did not reflect my opinion nor the opinions of the rest of the leadership in Gun Owners.

I had a long conversation on the matter of this copy with two of my very good friends, Warren Cassidy and Jim Reinke of the National Rifle Association. I concur with them that you have been one of our leaders in the preservation of our Second Amendment Rights, and they made a good selection in choosing you as our speaker at the convention. I, too, had the pleasure of serving as director of the NRA for better than a decade.

I know of the difficulties you now face as a leader of the Senate. Hopefully Gun Owners can be an assistance to you in the years to come.

Sincerely,

H.L. RICHARDSON,
Founder and Chairman.

[From the Congressional Quarterly, Mar. 29, 1986]

MISCUES COSTLY IN POLITICS OF OBSTRUCTION

(By Nadine Cohodas)

For much of the last 5½ years, House Judiciary Committee Chairman Peter W. Rodino Jr., D-N.J., has acted like the little Dutch boy with his finger in the dike.

Ever since Ronald Reagan became president and the Republicans took control of the Senate, Rodino has been fighting to hold back a tide of legislation pressed by the conservative right: anti-abortion constitutional amendments, anti-busing legislation, constitutional amendments to require a balanced budget and to allow school prayer.

He has learned how to play obstructionist politics very well. Not one of these pieces of legislation has cleared Congress, although Rodino did have a scare in 1982 when the House was forced to consider a balanced-budget amendment after the Senate passed one. The amendment was defeated with the help of some deft moves choreographed by the House leadership.

But Rodino may not be so lucky on another issue set for floor action April 9. That day, the House is to consider two pieces of gun legislation. One, favored by the National Rifle Association (NRA), would loosen restrictions in the 1968 Gun Control Act. The other, approved by the Judiciary Committee, would ease some of the law's requirements but would keep restrictions on handguns.

The Judiciary bill is given little chance of passage against the NRA-backed bill, and Rodino and his allies have drafted amendments to the NRA proposal, trying to preserve elements of the 1968 law.

Since 1979, when the NRA accelerated efforts to change the 1968 act, Rodino has bottled up the gun issue in the House. But this year his fortunes changed, and the fight over gun control nicely illustrates the amorphous and mercurial nature of obstructionist politics.

To succeed, the obstructionist must have an accurate measure of his own strength and his opponent's. He rarely is acting in isolation, especially in the House, where the rules make it difficult, though not impossible, for one person to sway the actions of the other 434.

In Rodino's case, he has not been acting only for himself. His ability to keep divisive matters off the floor is supported by dozens of members who privately applaud him and his committee for saving them from controversial votes. As a result, they don't flock to sign "discharge petitions" on abortion, busing or school prayer that would push these issues onto the House floor. (When 218 members sign a petition, they can force action.)

But guns are different. And this time around, it appears that Rodino and William J. Hughes, D-N.J., chairman of Judiciary's Crime Subcommittee, misjudged congressional sentiment.

They probably didn't bargain for the relatively quick Senate action in 1985; the NRA bill bypassed the Senate Judiciary Committee and went directly onto the Senate calendar. And they might have forgotten to watch the key Senate player—not James A. McClure, R-Idaho, the bill's sponsor, but Majority Leader Robert Dole, R-Kan. Dole gave the NRA something they couldn't get under his predecessor, Howard H. Baker Jr., R-Tenn.: floor time.

Although the Senate Judiciary Committee had approved gun legislation in 1982, Baker refused to let it come to the floor. But when Dole became majority leader, he decided there had been enough debate and that it was time for action.

It was not the first time Dole had done something for gun owners. In a 1982 catch-all spending bill he quietly inserted an amendment that lifted record-keeping requirements for .22-caliber bullets. And he inserted a provision in a 1984 trade bill that lifted import restrictions on many World War II weapons.

After the Senate acted in July, Hughes and Rodino apparently underestimated the momentum generated by its overwhelming 79–15 vote for the NRA bill.

Rodino was an unwitting catalyst. He pronounced the Senate bill "dead on arrival" in the House, and his comment, while catchy, was inflammatory. It helped convince some members that once again he would bury gun legislation. And it played into the hands of Harold L. Volkmer, D-Mo., who was circulating a discharge petition to get the bill on the floor.

Hughes seemed to misjudge the atmosphere as well. He waited until September to announce that his panel would hold hearings on gun control in Washington, D.C., and several other cities. The hearings didn't begin until late October, and contrary to the advice of gun control advocates, the out-of-town sessions were held in San Francisco and New York, two cities the gun lobby portrayed as too liberal and unrepresentative. Hughes' supporters had wanted him to go to the heart of gun country, Dallas and Denver, and get testimony from police and citizens there about how important gun control was.

With Volkmer and 203 supporters breathing down his neck by February, Hughes was still planning to hold more hearings. But the House leadership realized the threat, and told him to move a bill.

Hughes and the full committee promptly complied. Judiciary even managed to get a 35–0 vote on a consensus measure that was reported March 14. But the bill was immediately attacked by the NRA and its House supporters as unworkable and misguided.

The law enforcement community likes the bill, however, and for the first time, police groups are actively lobbying for the legislation. Rodino ultimately may be able to salvage some of what he wants in the gun fight April 9. But in this instance he is not marching smartly into battle. He's been pushed.

THE RETIREMENT OF MAYOR CLAYTON LODOEN

Mr. ANDREWS. Mr. President, recently one of North Dakota's outstanding public servants stepped down from the office of mayor of West Fargo. While Clayton Lodoen may be retiring as mayor, a position he has held since 1966, he will continue to serve North Dakota in the State senate. Few Americans can boast of providing the strength and leadership so fundamental to State and local government that has embodied Clayton's public service. He has long been a friend of mine, and I salute his personal dedication and 20 years of work on behalf of his fellow North Dakotans.

I ask unanimous consent to have the following editorial from the Fargo Forum printed here in its entirety so my colleagues and fellow North Dakotans may read the tribute to this truly outstanding American.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LODOEN GAVE LEADERSHIP

Mayor Clayton Lodoen, West Fargo's man for all seasons, is stepping down after 20 years of presiding over this anomalous kind of town, one part suburb and one part Chicagoland. Packing plant, stockyards, rapid growth, waterfront problems, (Sheyenne River), West Fargo has fought the good fight and progressed marvelously.

Lodoen, a former U.S. Marine, has led the way to preserve the tax base, zone for orderly growth, provide utilities and services, fight floods, and clean up the night life. All this in a city that has tripled in size since Lodoen was first elected in 1966.

Lodoen didn't run for re-election this year, feeling it was time to cut back on his activities an give someone else a chance at the helm. Florenz Bjornson was elected to succeed him.

The grey-haired, ramrod straight Lodoen, at 63, isn't about to retire from public life. He is still a North Dakota state senator, where he is president pro tem, and still carries on some real estate and insurance business in West Fargo.

So we are not saying farewell to Lodoen, but writing a concluding chapter to his career as mayor and congratulating him for a job extremely well done.

We like the way he has:

Fought spring floods, and led the city's efforts to get a Sheyenne River Diversion around the city that appears near passage by Congress.

Helped keep city revenues in the black while also keeping taxes down.

Worn two hats—senatorial and mayoral—in passing legislation to allow the city to bar nude go-go dancing in night spots. West Fargo had been fighting prostitution that emanated from some of these places. The legislation is a model that is used by other cities.

Fought pollution in sewage disposal through expansion of the city's sewage treatment plant.

Built a new city hall suitable to this community that has grown to 11,000 on the western edge of Fargo.

Fargo taxpayers may not appreciate the fact that the West Acres shopping center, while a part of Fargo, remains in the West Fargo School District. But without this commercial property in that city's school district, it is difficult to imagine how enough schools could have been built to handle growing enrollments. The legislative coup that accomplished this was led by Lodoen, wearing his Senate hat.

Clayton Lodoen deserves our congratulations as he retires as West Fargo mayor.

THE MHD GAP

Mr. HATCH. Mr. President, I would like to call attention to two articles regarding the role of magnetohydrodynamic [MHD] generators in the SDI Program. I am concerned that the United States is overlooking an important alternative power source.

A November 1985 document, "Soviet Strategic Defense Programs," released jointly by the Department of State and the Department of Defense, states:

> The Soviets appear generally capable of supplying the prime power, energy storage and auxiliary components needed for most laser and other directed-energy weapons. They have developed a rocket-driven magnetohydrodynamic generator which produces over 15 megawatts of electrical power—a device that has no counterpart in the West.

The generator the document refers to is an open cycle generator which runs on special solid fuels. The use of high-power sources of short, single current pulses makes it possible to avoid the use of forced cooling systems for the generator, to simplify the systems of receiving stations and to be more flexible in selecting the time for conducting a measurement session while achieving the most favorable signal-to-noise ratio.

The MHD generator was introduced in the U.S.S.R. around 1968 by Dr. Y.P. Velikhov, president of the U.S.S.R. Academy of Sciences and chairman of Soviet Scientists in Defense for Peace and Against Nuclear War. Dr. Velikhov recognized the vast potential of the MHD generator, and today the Soviets have further developed the unit for use in ballistic shields and laser weapons.

This power source could undoubtedly be a valuable asset to the U.S. SDI Program. It is a proven, effective gen-

erator whose capability exceeds any in present use.

Why then is the MHD generator technology not being exploited in the United States? Further research turned up an interesting twist to this question—not only do we have the capability, we are the initial developer, and still it is not in use.

The preliminary stages of the MHD development began in the early 1960's at the University of Tennessee Space Institute [UTSI]. At that time there was a great deal of interest and cooperation from the Department of Defense. Toward the late 1960's, however, military interest began to wane. Only the Air Force continued its involvement in the testing, and even that was scaled down considerably.

In the early 1970's the oil embargo hit. The early testing at UTSI had resulted in a coal-fired generator, thus increasing the desirability of MHD during this critical period. The United States increased its development programs, as did several other nations, including the Soviet Union. This trend continued until the mid-1970's when the pulse-generator era started to wind down.

The Soviet Union did not slow its program, however. Their development programs are continuing today, with research proving that they were correct in their belief in the potential of the MHD generator.

Over the past 25 years, all the data, experiments and accomplishments of the MHD generator support the conclusion that the combustion-driven MHD pulse generators are a viable power supply for space or remote terrestrial applications. We have the technology, the capability and the facilities; I believe the United States should resume and intensify its research and application of the MHD generator.

Mr. President, I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

"SOVIET STRATEGIC DEFENSE PROGRAMS"

(By Department of Defense and Department of State)

ADVANCED TECHNOLOGIES FOR DEFENSE AGAINST BALLISTIC MISSILES

In the late 1960s, in line with its long-standing emphasis on strategic defense, the Soviet Union initiated a substantial research program into advanced technologies for defense against ballistic missiles. That program covers many of the same technologies involved in the U.S. Strategic Defense Initiative, but represents a far greater investment of plant space, capital, and manpower.

Laser Weapons

The USSR's laser program is much larger than U.S. efforts and involves over 10,000 scientists and engineers and more than a half dozen major research and development facilities and test ranges. Much of this research takes place at the Sary Shagan Missile Test Center where the Soviets also conduct traditional ABM research. Facilities there are estimated to include several air defense lasers, a laser that may be capable of damaging some components of satellites in orbit, and a laser that could be used in feasibility testing for ballistic missile defense applications. A laser weapon program of the magnitude of the Soviet effort would cost roughly $1 billion per year in the U.S.

The Soviets are conducting research in three types of gas lasers considered promising for weapons applications: the gas-dynamic laser; the electric discharge laser; and the chemical laser. Soviet achievements in this area, in terms of output power, have been impressive. The Soviets are also aware of the military potential of visible and very short wave-length lasers. They are investigating excimer, free-electron, and x-ray lasers, and have been developing argon-ion lasers for over a decade.

The Soviets appear generally capable of supplying the prime power, energy storage, and auxiliary components needed for most laser and other directed-energy weapons. They have developed a rocket-driven magnetohydrodynamic generator which produces over 15 megawatts of electrical power—a device that has no counterpart in the West. The Soviets may also have the capability to develop the optical systems necessary for laser weapons to track and attack their targets. Thus, they produced a 1.2-meter segmented mirror for an astrophysical telescope in 1978 and claimed that this was a prototype for a 25-meter mirror that would be constructed in the future. A large mirror is considered necessary for a space-based laser weapon.

Unlike the U.S., the USSR has now progressed in some cases beyond technology research. It already has ground-based lasers that could be used to interfere with U.S. satellites, and could have prototype space-based antisatellite laser weapons by the end of the decade. The Soviets could have prototypes for ground-based lasers for defense against ballistic missiles by the late 1980s, and could begin testing components for a large-scale deployment system in the early 1990s.

The remaining difficulties in fielding an operational system will require still more development time. An operational ground-based laser for defense against ballistic missiles probably could not be deployed until the late 1990s, or after the year 2000. If technology developments prove successful, the Soviets may deploy operational space-based antisatellite lasers in the 1990s, and might be able to deploy space-based laser systems for defense against ballistic missiles after the year 2000.

[From the Washington Post, Sept. 6, 1985]

SOVIETS TAKE LEAD IN SPACE LASERS

(By Jack Anderson and Dale Van Atta)

The superpowers' contest for military supremacy in space continues, and the Soviets appear to be substantially ahead in the latest round: laser weapons.

CIA sources have told us they've discovered a major laser test center at Krasnoarmeysk, 30 miles northeast of Moscow. Even more alarming, the facility is believed to be actually producing laser weapons.

Evidence of the priority the Soviets place on the Krasnoarmeysk weapons plant, the CIA has determined, is that it is operated by an integrated design bureau.

Ordinarily the Soviets borrow the capitalist technique of competing design bureaus for everything from tanks to ballistic missiles. They have found that the competition eventually produces better weapons—but it's too time-consuming for a top-priority program.

"The Soviets have had a research program under way since 1970 aimed at developing lasers with weapons applications," notes a top-secret CIA report.

The program includes at least a half-dozen major research and development facilities and test ranges. More than 10,000 scientists and engineers are involved.

By way of comparison, the CIA estimates that a similar U.S. laser weapons program would cost about $1 billion a year. But the United States only began playing catch-up during the Reagan administration, with about $800 million earmarked for laser weapons research in 1986.

One of the unique features of the Soviet laser program is the development of a rocket-driven magnetohydrodynamic (MHD) generator, which produces 15 megawatts of short-term electricity as a fire-power source for the lasers.

A secret State Department report on the MHD explains that "it generates current by passing a conducting fluid through a magnetic field." The report adds this disturbing comment:

"Their [the Soviets'] MHD work is the largest in the world and continues to grow. Power outputs already achieved exceed those in the West several fold, and both rocket power and liquid metal system inputs could have potential for military programs in high-energy lasers, charged particle beams and space-borne laser power supplies. MHD is a technology area where the Soviets clearly lead the U.S. in demonstrated capability."

In fact, there is no counterpart device in the West.

Both the CIA and the Pentagon believe that the Soviets already have ground-based lasers that could interfere with U.S. satellites, and they estimate that by the late 1980s the Russians could have at least prototype space-based laser weapons that could incapacitate U.S. satellites.

The actual development of space-based lasers for antisatellite use is a tricky business, however, and the intelligence experts figure that the Soviets won't have mastered this before the 1990s.

The various reports and estimates, which accumulate with virtually every top-secret satellite photograph and analysis of it, all demonstrate that the Buck Rogers "ray gun" won't wait for Dr. Huer to come along in the 25th century.

THE WASHINGTON POST PRAISES THE SENATE'S WATER RESOURCES BILL

Mr. STAFFORD. Mr. President, just prior to the recess, the Senate passed S. 1567, the omnibus water resources bill, then substituted the Senate-passed language as an amendment to H.R. 6, and requested a conference with the House.

While the Senate was in recess, the Washington Post carried an editorial discussing the Senate's version of this water resources development bill. This editorial referred to the Senate's bill as "sensible," and noted that "Con-

gress seems headed down the right path."

Mr. President, I agree.

This editorial is a tribute to the Senate. It is also a great tribute to our colleague, JIM ABDNOR, chairman of the Subcommittee on Water Resources. Senator ABDNOR worked hard and effectively to shape this bill and to win Senate passage of this legislation.

He led the fight for a disciplined, realistic bill. He deserves the special thanks of the Senate for this editorial.

Mr. President, I ask unanimous consent that a copy of the editorial be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 28, 1986]

WATER BILLS

Passage of a rivers and harbors bill used to be an important festival in Congress. Not since the early 1970s has there been one of any size. The main reason has been a dispute, first with President Carter, then with President Reagan, over the extent to which the federal government should any longer bear the cost. Now it appears that dispute may be ending. The Senate this week passed a sensible bill that, on the one hand, authorizes $11 billion in new projects but, on the other, requires beneficiaries to share the cost. The House passed similar albeit less disciplined legislation last year—$20 billion in projects and less cost-sharing. The administration has said the House bill is unacceptable, but the matter now goes to conference. A fair compromise ought to be possible.

The Reagan administration has insisted on cost-sharing on fiscal and philosophical grounds. It likes user fees, in part for the money they save, in part on the theory that government subsidies distort investment decisions and detract from efficient use of resources. The Senate bill would require the immediate beneficiaries of flood control projects to put up a fourth to a third of the cost. Communities will think twice about projects they used to accept happily because they were "free." That at least is the theory. There will be cargo fees to help pay for work on ports and a barge fuel tax increase to support work on inland waterways.

These partial deterrents may also have useful environmental effects. That was one of the reasons the Carter administration was drawn to them. Large water projects disturb the environment almost by definition; some do serious damage. Environmentalists tend to think the fewer the better.

Some of the projects in both bills remain dubious, both on environmental grounds and because the benefits don't match the costs. Not all these will be dropped in conference; they never are. But some will also be caught up by the new cost-sharing rules, and all these projects are authorizations only. It remains for the appropriations committees to choose—and to spread the expenditures so as not to burden the deficit.

It is tempting for all who live at a distance to write off all public works expenditures as pork. Not fair. Kept from excess, this is a necessary process in national investment; the cost-sharing principle is important. Congress seems headed down the right path.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. DOLE. Mr. President, there are a number of us who will be attending a luncheon today with the Prime Minister of Japan, Mr. Nakasone. Because of that, and the fact we are waiting on one or two Senators with reference to the crime bill legislation, I move the Senate now stand in recess until 2:30 p.m. today.

The motion was agreed to; and, at 12:59 p.m., the Senate recessed until 2:30; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABDNOR).

JOHN Q. PUBLIC OF THE REAL WORLD

Mr. MELCHER. Mr. President, the concerns on which attention is currently focused here in Washington, DC, the seat of the government of the world's strongest country, are not the center of reality for the people of the United States.

The real world for most Americans is in the job place, and that is shaky; hanging on to the family farm, liquidation threatens; or business endeavors; basic industries are going under.

The family pocketbook and savings accounts are getting flattened and drained. Family and business debts are big worries. In short, these are the pressing real world concerns of the citizenry.

In contrast, we find the government of this country concentrating on Qadhafi and Libya, Nicaragua and the Contras, and David Stockman's book about his and the White House economic failures.

Each of these concerns intertwine in an unholy trinity to dominate the Federal Government's attention. They can only dominate the attention of the people in terms of frustration that their elected officials ignore the real problems of the country.

For those who take former Budget Director David Stockman too seriously, such as President Reagan and his staff plus national party leaders, they all deserve each other and Stockman's barbs.

On Libya and Nicaragua, there is a common problem—both countries of about 3 million people have misguided, irresponsible heads of state threatening terrorism or killing their neighbors. The use of overwhelming U.S. naval strength against Qadhafi should be approached with caution.

What next? President Reagan has not said.

But the President has not proposed, as he probably should, similar U.S. naval patrols in the Caribbean to stop armament shipments into Nicaragua from the Soviets and/or Cuba.

Instead, he tells John and Mary Q. Public that the rag-tag Nicaraguan Contras, with $100 million in United States aid now and more later with which to kill a few hundred more people, is the United States policy. The Publics only shake their heads in profound disbelief.

Imagine, with me, what John and Mary Q. Public must think as they contemplate the realities of Hometown, U.S.A.

The family paycheck has shrunk. Their 23-year-old son's job is irregular and low paying, and their college-trained daughter's best job so far is at a fast food counter. One of the next door neighbors' kids, because college loans were not available, dropped out of college.

But they are even more concerned that Mrs. Public's brother and nephew seem to be losing the old family farm. They have been told to contribute some of their time and assist with donations at their church food bank, which helps the community's jobless families after their town's manufacturing plant closed down last year. Despite hearing from their farm kin and reading press accounts of huge surpluses of commodities in Federal storage, none of it has trickled down to be used in their church food bank.

Television portrayals of terrorist attacks draw their attention and are discussed at the supper table. They ponder, wondering if the Federal controls on air travel safety should be beefed up. One of them recalls an acquaintance who is a flight controller never rehired after the strike. They ponder whether air traffic is safe but wonder if it has been cut too much. While the family favors the National Aeronautics and Space Administration [NASA], space exploration and space shuttles, they have noted the speedup in launches—11 of them scheduled in 1986—and they wonder how much they had to do with the President's plan for expanded star wars research.

All of the John Q. Public family have tightened their belts. They worry over the economy and are convinced that it is outrageous that some of the Pentagon procurement is wasted on high-priced equipment or canceled weapons that do not work. They particularly note as April 15 approaches and passes that profitable megabuck corporations still pay no income taxes.

Their puzzlement is growing and their anger is simmering.

Their city and school taxes are on the increase because Federal funds have been cut. That has resulted in

municipal garbage and landfill curtailment and a slowdown in a toxic dump cleanup on the edge of town.

Mary, a former schoolteacher, is particularly concerned that federally funded reading and math teaching assistance has been cut in the local schools.

But the over-coffee talk that John Q. has picked up about foreign aid increases has sparked more than one evening's family discussion. He is a World War II veteran. One of his Army buddies is having difficulty qualifying for sorely needed veterans health care. The health of their immediate family has always been good, but his parents have needed help in meeting hospital costs, even though both are covered under Medicare, because the couple's savings virtually evaporated.

The John Q. Public family is not too concerned about Stockman's book, hopes the President knows what he is doing about Qadhafi, but what is this about $100 million for Nicaragua—and just who are the Contras? They agree it is about time they write their Congressman and their Senators.

Well, if that is not the way it is happening in the real world of the John Q. Public family in Hometown, U.S.A., at least these are the concerns expressed that I find in my letters.

There is real work to be done for Hometown, U.S.A., and the Publics know it even if Washington does not.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PROPER RESPONSE TO THE LIBYAN THREAT

Mr. BENTSEN. Mr. President, certainly it has been established beyond doubt that Libyan leader Mu'ammar Qadhafi has threatened the United States and many other nations. I am convinced that it would be in our best interests if he no longer served as head of that country.

The best way to achieve that result would be to help those who have their own good reasons to seek his removal. I am not suggesting that we abandon our current prohibition on assassination. I am certainly not talking about putting out a contract on him. I am suggesting a program of assistance to those Libyans who oppose his regime and would like to see their country rescued from Qadhafi's wild adventures and repressive rule.

By all accounts, there is strong domestic opposition to Qadhafi—from segments of the military, from the middle class, from ordinary Libyans who have not benefited from his one-man revolution.

There have been over a dozen serious coup attempts directed against Qadhafi in this decade. Libya is thus ripe for a coup, and we should be supporting those who could bring it about.

Instead of aiding this opposition, current U.S policy has the effect of legitimizing Qadhafi among his countrymen and rallying them around him in patriotic fervor.

We also should be working quietly with other Arab nations who fear Qadhafi's expansiveness, his diplomatic intrigue, and his outright terrorism. They have their own good reasons for opposing Qadhafi, but they have felt compelled to show Arab solidarity in response to America's gunboat diplomacy.

Instead of such a policy—low profile, but tough and smart—we have been sailing warships around the Mediterranean and threatening unspecified additional military actions. We are not practicing the wise counsel of Theodore Roosevelt, to "speak softly but carry a big stick."

It would surprise no one—least of all Libyans at possible target sites—if we launched an attack. But such a retaliatory strike is not likely to be effective at eliminating either Qadhafi or the vicious terrorism which he supports.

There is no doubt in my mind that Libya has been directly involved in recent terrorist incidents, including the West Berlin bombing. What is at issue is not the question of guilt, but the question of how best we ought to respond to Qadhafi's terrorism in the context of both short-range and long-range foreign policy goals. This requires a balance, which does not appear we have achieved.

In recent days, U.S. officials have been publicly pressuring our European allies to join with us in denouncing Qadhafi and taking tough economic sanctions. Thus far, the European response has been disappointing, for they too should recognize and work to counter this Libyan threat. Unfortunately, our loud public efforts have led mainly to calls for U.S. restraint.

A lower profile is more likely to be effective than our current posture of blustery confrontation and imminent conflict. The terrorist threat is too real, and Qadhafi is too great a danger to civilization, for us to be diverted by military displays which offer little promise of promoting our true national interests in this situation. Threatening Qadhafi by destroying a missile battery or two and sinking a couple of patrol boats may be gratifying, but actions such as these, when they are ends in themselves, may in fact be counterproductive.

We discovered in Lebanon that a limited military response risks American lives without accomplishing our objectives. We should not send our men into harm's way when there is a better alternative still available. Our real goal is that of ending the terrorist threat that Libya's current ruler poses to the world. I do not believe that our present policy will reach that end.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Morning business is closed.

ANTI-VIOLENCE AMENDMENT TO THE HOBBS ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 353, S. 1774, the Hobbs Act.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Objection.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. DOLE. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 353, S. 1774, the Hobbs Act, and I send a cloture motion to the desk. I understand the distinguished Senator from Pennsylvania wanted to speak on the motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the *motion to proceed* to the consideration of S. 1774, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

Bob Dole, Jesse Helms, Malcolm Wallop, Gordon Humphrey, Paul Laxalt, Don Nickles, Mack Mattingly, Phil Gramm, Steve Symms, Thad Cochran, J. Denton, Al Simpson, Chuck Grassley, Jake Garn, Mitch McConnell and Orrin Hatch.

Mr. DOLE. Mr. President, I would inform my colleagues a vote on the cloture motion on the motion to proceed would come on Wednesday. It may be that prior to that time we could reach some agreement on maybe letting us proceed to the bill. But in any event, the distinguished Senator from Pennsylvania advised me last Thursday that he wanted to be present when this effort was made and so we have waited. The Senator was available and he would now like to make a statement. I would hope that perhaps after some debate, if we cannot complete action on the so-called technical amendments on the crime bill, we would not stay in too late this evening because both the dis-

tinguished minority leader and I have other engagements all afternoon.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. We on this side were cleared for action on the motion to proceed. I had informed the distinguished majority leader to that extent, that we were not going to in any way attempt to delay the motion to proceed to take up the measure. But that consent has been objected to by the Senator who is acting within his rights and within the rules. I just wanted to say for the RECORD that the majority leader at least as far as this side is concerned was cleared to proceed to the measure.

Mr. DOLE. The Senator is correct; we did have that conversation and that indication was made.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished majority leader for scheduling proceeding on the amendment to the Hobbs Act to allow this Senator to be present. I have registered my objection to the unanimous consent request propounded by the majority leader to proceed because it is my sense that this is a matter of fundamental importance and it ought to be debated at each step of the way so that this body can focus attention of this important issue. Moreover, the public ought to be informed as to what is involved and the Members of this body must have ample opportunity to focus on this issue which is, realistically viewed, the purpose of our extended considerations and extended debate.

The issue which is before the Senate at this time on the underlying merits contains an effort to amend the Hobbs Act to make alleged assault and battery cases on a union picket line a matter of a Federal violation warranting criminal prosecution in the Federal courts. It is my view that that is most unwise, and I say so having had substantial experience as a prosecuting attorney on matters involving labor violence.

Based on that experience, it is my view that the State courts and State prosecutors are well equipped to handle these matters if union violence is involved and that it is unwise to bring that matter to the Federal courts, to make a Federal case out of it, to bring the Federal Government into the picture at a time when there is a heavy emphasis on limiting the Federal role and leaving the majority of action to State and local governments.

The issue of picket line violence is properly a matter, under American law and American jurisprudence, to be handled at the local level.

Criminal prosecution in every State gives a responsibility to a district attorney in States like Pennsylvania, a county attorney in States like Kansas, a prosecutor of the pleas in some States, and it is the responsibility of the county official to make the baseline determination. County prosecutors are equipped to do so.

I cite my own experience as an assistant district attorney in the case of Commonwealth of Pennsylvania versus Local 107 Teamsters. Six Teamster officials were indicted in Pennsylvania in 1959 arising out of evidence acquired by the McClellan Committee, which investigated union corruption and union violence in a series of celebrated hearings in the U.S. Senate. In the hearing procedure in this body, back in the mid-1950's, a very well-known and very distinguished committee undertook that investigation.

At the conclusion of the hearings, the committee then turned evidence over to a variety of State prosecutors and turned over an abundance of evidence to the district attorney's office of Pennsylvania. I was assistant district attorney and brought the case to trail in March of 1963. It was a complex case which lasted for more than 10 weeks and involved some 250 witnesses who took the stand. Some 1,160 exhibits were presented in that case. As a result, all six of the Teamster officials were convicted, and all went to jail.

A significant part of that prosecution involved union violence on picket lines, where there were beatings, severe beatings, where there was assault and battery, and where there was aggravated assault and battery. The local prosecutors' office was fully equipped to handle that kind of case. There was no need for the Federal prosecutor to intervene, no need to bring the Federal Government into the matter, no need to make a Federal case out of it.

Mr. President, there are ample procedures for redress short of making an assault and battery case a Federal matter, even if the local prosecutor, for one reason or another, fails or refuses to act.

In Pennsylvania, which is illustrative of the general rule, the State attorney general may supersede the district attorney in cases where the district attorney fails or refuses to act. There are solid common-law precedents generally—although I do not purport now to comment on the detailed laws of all 50 States which give the attorneys general in the United States the authority to supersede local district attorneys where DA's act improperly or refuse to prosecute.

If the attorney general should similarly refuse to act, there is a statute in Pennsylvania—a statute duplicated in many States in the United States—which authorizes the private injured party to file a petition with the court showing that the district attorney has failed or refused to act, and the presiding judge of that county, in any one of Pennsylvania's 67 counties, then has the authority to appoint private counsel to act as the prosecuting attorney in that case.

So that if you have a matter where there is some overtone of inaction, inappropriate inaction, and there are strong reasons to proceed with the prosecution—and customarily in matters of this sort, there are well-represented parties on both sides—the case may go forward. In cases which have been heard by the Judiciary Committee, for example, frequently several injunction proceedings are pending at the same time. These are matters where counsel are present, and certainly there is an opportunity for private counsel to come in and file such a petition and act and displace the district attorney, if that is warranted under the facts of the case.

There is a solid precedent for private counsel acting in criminal prosecutions, with the vast majority of the States in the United States having case law which supports private counsel, for example, and for assisting the district attorney when there is a strong private reason for intervention.

Mr. President, this issue has been heard extensively by the Committee on the Judiciary. A number of the matters have involved incidents arriving out of Pennsylvania. This Senator has inquired into those matters and has found in every one of them that there were ample opportunities for full redress of any valid interest on the part of the injured party or full opportunities for redress by having a criminal prosecution which could have been brought, had the parties really wished to do so.

In some situations, there is not a possibility for identifying who the assailants are. Obviously, a Federal prosecutor can no more proceed in the absence of positive identification than can a district attorney or a private citizen.

Mr. President, I express further concern in this matter as to what the real import of this amendment may be. I am concerned that there may be an intent or an effort to utilize such a law, if it were to be passed by Congress and signed by the President, to stifle or chill the expression of freedom of speech as it is embodied in peaceful picketing. The cases are legion in which the Supreme Court of the United States has upheld peaceful picketing as a right of freedom of speech—that is, an expression of freedom of speech.

If those who are expressing their right of freedom of speech are going to be concerned that there may be a Federal marshal present or there may

be an assistant U.S. attorney present or an allusion that they will take the case to a Federal court, that can have a very chilling effect.

If there were an effort to amend the Hobbs Act to show that there is some element of conspiracy or some element of organized crime or some conspiratorial act of organized crime, this Senator's view would be quite different. In the opinion of this Senator, the amendment goes too far when it makes the simple assault and battery case a violation of the Federal law.

Mr. President, I further express a question—perhaps more strongly stated, some misgivings—about the procedure in this bill reaching the floor at this time, although the procedural meanderings of the Senate are complex and sometimes subject to some wonderment. This bill was defeated in the Judiciary Committee. The Judiciary Committee held extensive hearings on the bill in this, the 99th Congress, the 98th Congress, and also in the 97th Congress. We had a vote on it in the Judiciary Committee on September 12, 1985, and the Committee turned this bill down.

Now it is on the calendar, having been held at the desk and having moved to another legislative day. I think that procedure further warrants some special inquiry at this time.

Without foreclosing any further activity, Mr. President, let me say at this time it is not my intention to filibuster this matter. I do not intend to do so because I believe that the Senate ought to move ahead with the consideration of its regular business, and we have a great deal to take care of on our agenda, but I do not believe it is a difficult problem to have the motion to proceed considered by the Senate today.

We are not exactly overflowing with Senate business on the floor of the Senate today. Outside of a fair number of interested spectators in the galleries, a few members of the press, a few attentive pages, a few staff members, the floor of the Senate is populated today, and I trust I violate no rule of our august body by saying so, by the distinguished Presiding Officer, the distinguished Senator from Mississippi, Senator COCHRAN, and by yours truly, the Senator from Pennsylvania, who is making this speech.

So in expressing myself on the motion to proceed, I am not putting aside any other more pressing business of the Senate at this moment.

But I know that our colleagues are all hard at work, many of them in their own States. I already thanked the majority leader for awaiting my arrival because I was in Pennsylvania, arrived in Washington within a half hour or just a few moments before coming here. Our colleagues are very busy in their own States attending to many matters around this country, and some are doubtless in their offices in the Capitol here in Washington, DC, today and perhaps some of those in their offices have their squawkboxes on and it may even be that some are listening. If that be so, then let the consideration proceed.

Mr. President, as you know, and our association has been extensive the past 5½ years, this Senator does not take the floor on too many occasions, and I have not participated in any filibusters, but some extended debate on some subjects like Conrail that are very important to Pennsylvania.

But I feel very strongly about this issue, having been in the trenches on it and having seen exactly what it means to handle assault and battery cases and serious assault and battery cases and knowing that they can adequately be handled by local prosecuting attorneys. I really believe in a sense that it is an affront to the local prosecutors of America to say you need to bring the Federal prosecutor into the picture in the Hobbs Act because the local district attorney cannot handle the assault and battery cases. The district attorneys across America handle more than assault and battery cases. They can handle complex cases involving murder. I think the record is plain that by and large district attorneys handle assault and battery cases even when they involve union violence.

There are adequate remedies through State attorneys general and private prosecutors to protect the rights of those injured and ample remedies in a civil context, so there is no need to make a Federal case out of a fist fight on a picket line.

That is especially true, at least in the opinion of this Senator, where there are first amendment issues involved; the right to freedom of speech is exemplified by the right to peaceful picketing.

Mr. President, as the debate moves forward on this matter, this Senator will have additional comments to make in amplification, but that, in the course of a few minutes this afternoon, expresses my sense of the issue and my reasons for registering the objection on the motion to proceed at this time.

I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

VICTORY OF THE HUMAN SPIRIT

Mr. SIMPSON. Mr. President, today is a magnificent spring day in the Nation's Capital. I think it reminds us all of how fortunate we are to be here to represent our home States and to enjoy the peace and freedom of this great country—indeed, to be alive.

That is why I would like to pay special recognition to a very bittersweet anniversary on this day. It was this day 41 years ago that forever changed the life of one our most distinguished Senate colleagues.

Back then, he was known simply as 2d Lt. Robert Dole, a brave, 21-year-old platoon leader, who left the University of Kansas in his premedical studies and varsity athletics for the Jayhawks in 1943 to take on the Nazi hordes.

His athletic prowess, intelligence and unusal leadership abilities made him a natural for one of the elite units of the U.S. Army—the 10th Mountain Division, a crack group of Olympic-class athletes and college students whose unenviable job it was to storm the rugged Italian mountains—often times on skis—to root out the deeply entrenched German forces. Soon after he arrived in Italy, the young man from Russell, KS, became known as the finest platoon leader his men had ever had. Believe me, I am not surprised; nor are those of us that serve with him on either side of the aisle. So he is now my platoon leader. It is a great honor to be his first sergeant in these ranks.

And so it came that on April 14, 1945, Second Lieutenant Dole found himself on hill 913, one of those nameless battlefields that can speak volumes about heroism but is somehow lost in the pages of history. But history does tell us that the 10th Mountain Division was indeed a legendary outfit. It had set high standards indeed, having never yielded one inch of ground it had ever taken back from the enemy. In fact, on that April day in 1945, the 10th Mountain Division took more casualties than all other allied forces in Italy combined. The resistance was fearsome: The Dole platoon was pinned down near a mine field, and raked by deadly accurate German snipers, mortar fire and well-fortified machine gun bunkers. It was on this day 41 years ago—near a tiny mountain village called Castel D'Aiano—that Senator BOB DOLE, our superb majority leader, was struck down by a torrent of enemy fire. He had moved into a foxhole to try to save a fallen friend. But in an instant an explosion—a machine gun shell, a mortar round, no one knows for sure—tore into his body. He was left for dead on the battlefield.

So today is an anniversary. The anniversary of an inspirational and

almost unbelievable comeback. Because from the agony of that foxhole, BOB DOLE beat all the odds. In the face of catastrophe, he set out on a long and difficult journey back to the living. It started on a stretcher on an Italian hillside and took him all the way to a slot on the 1976 Presidential ticket and to the leadership of the U.S. Senate. His comeback included 39 months of hospitalization and years of rehabilitation; a roller coaster of hope and despair with several brushes with death along the way. First, he was told he would never walk again. From a robust 192 pounds he dropped to 120. He was to experience 108 degree body temperatures and severe kidney problems. Then there was a string of painful operations. And the knowledge that his medical career was over before it had ever started. But we all know how the story came out.

Mr. President, a few nights ago at the Kennedy Center, four disabled Americans were honored for their remarkable life achievements. Our Senate leader was one of them. The award he received is called "The Victory of the Human Spirit" and I can think of no one more deserving of this honor than BOB DOLE.

I am so very proud of my good friend from Kansas. Sometimes in the heat of the combat of everyday politics we forget that our Senate is an extraordinary collection of unique individuals, with fascinating backgrounds, and often very touching and moving experiences in those backgrounds that shaped them. We never take much time to share those things with each other in this Chamber as we go through the hurtling experiences of the day. But let me just say that today is a day to recall—BOB DOLE's day. We can all learn much from his "victory of the human spirit." He is a very special person to me, and to us all.

God bless him.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUMPHREY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORM OF FEDERAL INTERVENTION IN STATE PROCEEDINGS ACT OF 1986

Mr. THURMOND. Mr. President, I send a bill to the desk, on behalf of myself and others, and ask that it be read for the first time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2301) to reform procedures for collateral review of criminal judgments and for other purposes.

Mr. THURMOND. Mr. President, I ask that it be read a second time.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be held at the desk.

Mr. THURMOND. Mr. President, today, I am introducing two bills, habeas corpus legislation and exclusionary rule legislation, and asking that they be placed directly on the calendar. I am pleased to be joined in offering this legislation by several of my distinguished colleagues on the Judiciary Committee, Senators DECONCINI, LAXALT, HATCH, and DENTON.

The bills I am introducing today cover the same issues that were placed before, and fully considered by, the Judiciary Committee in two previous Congresses. In fact, these bills are identical to S. 237, Exclusionary Rule Reform, and S. 238, Habeas Corpus Reform, that I introduced during the first session of this Congress on January 22, 1985, and which were referred to the Judiciary Committee.

Over the last several Congresses the Judiciary Committee has devoted a great deal of time to these issues. During the 97th Congress, the committee held three hearings on exclusionary rule legislation and two hearings on habeas corpus legislation.

In the 98th Congress, the committee considered these issues in a series of hearings held on the comprehensive crime control bill and reported out S. 1763, Habeas Corpus Reform, and S. 1764, Exclusionary Rule Reform. The Senate overwhelmingly approved both of these bills. S. 1763, Habeas Corpus Reform, passed by a vote of 67-9 on February 6, 1984, and S. 1764, Exclusionary Rule Reform, passed by a vote of 63-24 on February 7, 1984.

At the time I introduced S. 237 and S. 238 last year, I did not ask that they be placed directly on the calendar even though they are identical to the legislation that passed last Congress, because I wanted to give the committee one more opportunity to consider these issues. The committee has had that opportunity for the last 13 months. These bills have been on the agenda on the committee since September 12, 1985. The committee held hearings on S. 237 on October 2, 1985, and on S. 238 on October 8, 1985. Even though the committee has fully considered these issues in previous Congresses and there is tremendous support for these bills as demonstrated last Congress, the committee still has not been able to proceed to a final vote on these bills this Congress.

By having these bills placed on the calendar, the full Senate will be given the opportunity to address these important issues, without forcing any committee member to forfeit his right to be involved in debate on the floor. Further, the committee will now move on to consideration of other legislation that is pending before us.

I will be working with the majority leader in an effort to have these bills scheduled for floor action, in order for the Senate to once again strongly endorse these needed reforms. I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1986".

Sec. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Surpreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3. Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trail, a

person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22.

"HABEAS CORPUS AND § 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the States.";

(b) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear, and convincing evidence."; and

(c) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.".

SEC. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgement of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

Mr. HATCH. Mr. President, for most of this decade, we have been trying to relieve the crushing burden on the Federal courts with respect to habeas corpus applications. In 1981 Senator THURMOND introduced S. 653 which sought to modify existing habeas corpus procedures and to reduce the enormous proliferation of applications of writs of habeas corpus by incarcerated defendants. This unfortunately unsuccessful attempt was followed in 1983 by the introduction of S. 1763, an amended version of S. 829, which had full administration support, including not only the Attorney General of the United States, but also the endorsement of the National Association of Attorneys General and the Conference of Chief Justices. S. 1763 was reported from the Committee on the Judiciary by a vote of 12-5 with 1 abstention. S. 1763 passed the Senate on February 6, 1984, by a vote of 67-9. The House, however, did not act on S. 1763 before the close of the 98th Congress. Now, Mr. President, S. 238, a bill designed to reform the areas open to abuse in the criminal justice system, with respect to habeas corpus procedures, is once again being delayed, by its critics, beyond the point of reason in the Senate Judiciary Committee. This bill has been on the agenda and the subject of extended discussion in the committee for 9 months. Any amendments have so far been defeated.

I commend Chairman THURMOND for bringing this to the floor. The abuse of the habeas process is making a mockery of the principles of finality and certainty in the American judicial system. During the past quarter century, habeas corpus filings have increased by 800 percent. The recent numbers involved are almost dumbfounding. In 1983, 10,392 habeas corpus petitions were filed. In 1984, 10,169 habeas corpus petitions were filed. And last year, in 1985, 11,992 habeas corpus petitions were filed, an increase of 823 over the previous year and an alltime high in filings. A Department of Justice study has revealed that 98.6 percent of habeas corpus cases which were appealed at the Federal level had previously undergone State appellate review. Over 30 percent of the Federal habeas corpus petitioners had filed one or more State habeas corpus petitions or Federal habeas corpus petitions. Over 44 percent of the State petitioners to Federal court had previously filed a habeas corpus petition in State court. Over 20 percent of Federal habeas corpus petitioners had filed more than 2—and up to 13—previous State petitions. Clearly, Mr. President, the use of the criminal justice system by these petitioners had turned into an abuse of the criminal justice system by these petitioners.

As of June 30, 1985, more than 7,500 habeas corpus petitions were still pending, according to the administrative office of the U.S. courts. And it should be carefully noted that the previous year, out of the nearly 2,000 habeas corpus petitions filed in just 6 Federal district courts, only 1.8 percent resulted in the prisoner's release. I believe it is also important to note that it is the continued stream of habeas corpus petitions which draw out capital punishment from the time of sentence to the time of punishment for a general period of 5 to 7 years.

The right to habeas corpus is far from clearly defined in the U.S. Constitution. It is mentioned only in article 1, section 9, clause 2, which merely states that the writ of habeas corpus shall not be suspended unless rebellion or invasion requires such suspension.

Chief Justice John Marshall in *Ex Parte Bollman*, 8 U.S. 75 (1807), determined that a statute was necessary before the Federal courts could issue writs of habeas corpus. In John Marshall's view, it was section 14 of the Judiciary Act of 1789 which provided the necessary authority for the granting of such writs. Thus, this is a question of statutory, not constitutional,

rights. The essential point to be made is that Congress can—and should—limit the application of habeas corpus under the provisions found in S. 238.

With respect to statute, in 1867 the Congress provided that persons who were incarcerated in violation of the Constitution and its guarantees could obtain a writ of habeas corpus from the Federal courts. Then in 1914, the majority of the Supreme Court held in the case of *Frank* v. *Magnum*, 237 U.S. 309 (1914), that a full and adequate hearing in State courts on a criminal conviction precluded collateral relief in Federal court. Full and adequate was defined in terms of due process—notice, opportunity to be heard, and an established procedure not repugnant to the Constitution. The late and great judge, Henry J. Friendly, writing in the University of Chicago Law Review (1970), pointedly observed that:

> Nothing in the Constitution requires a State to allow collateral attack simply because Congress has authorized Federal habeas corpus to challenge the State conviction.

In that context, it is valuable to hear what some of the Nation's chief jurists think of the current statutory habeas corpus policies:

Chief Justice Burger:

> The administration of justice in this country is bogged down with lack of reasonable finality of judgments in criminal cases.

Judge Henry Friendly:

> A matter that has rankled relations between State and Federal courts for some years now is the collateral attack on final State criminal convictions * * * since the same claim of Federal law can be and often is made in the trial and appellate courts of the State, with certoriari review available in the Supreme Court, the State judges understandably have some difficulty in seeing why their work should be reexamined.

Justice Stevens:

> In recent years Federal judges at times have lost sight of the true office of the great writ of habeas corpus.

Justice Powell:

> The present scope of habeas corpus tends to undermine the values inherent in our Federal system of government * * * we render the actions of State courts a serious disrepect in derogation of the constitutional balance between the two systems.

Justice O'Connor:

> State judges take an oath to support the Federal as well as the State constitution * * * it is a step in the right direction to defer to the State courts and give finality to their judgments on Federal constitutional questions where a full and fair adjudication has been given in State court.

Mr. President, S. 238 is not only reasonable, it is also necessary, if we are not to drown the Federal judiciary in a sea of habeas corpus writs. S. 238 denies habeas corpus relief to a convicted defendant who fails to raise a claim properly or to have it heard in State court proceedings. It allows only a 1-year period for such claim to be filed, and it runs only from the time that State remedies are exhausted, the time constitutional impediments are removed, the time at which a Federal right was initially recognized by the Supreme Court or newly recognized by it, and from the time when the factual predicate of the claim could have been discovered by due diligence. It also requires a claim of habeas corpus to be made to the appropriate district court, requires a circuit judge to issue a certificate of probable cause, requires the prior exhaustion of State remedies, and requires a timely petition to be made under the rules of Federal criminal procedure.

It is clear, Mr. President, that something has to be done and done soon if we are to have a manageable and meaningful criminal justice system. This bill does not violate the Constitution. It follows the Constitution. It also balances the interests of society and the general community with the interests of the individual in securing his constitutional rights and protections. This is a bill that will do justice. It should be passed in order to prevent our system from continual abuse of process. I urge its passage.

Mr. DENTON. Mr. President, I rise today to join my distinguished colleague from South Carolina, Mr. THURMOND, in support of the Reform of Federal Intervention in State Proceedings Act of 1986. It is designed to reform certain habeas corpus procedures that are currently in effect.

The writ of habeas corpus originated in the common law. Its importance was recognized by our Founding Fathers when they included in our Constitution a provision that "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." We know from history and the common law, however, that the habeas corpus proceedings to which the Founding Fathers referred in the Constitution were proceedings that sought an initial judicial determination of the legality of a detention imposed by an executive authority. The Founding Fathers did not have in mind proceedings that sought additional judicial reviews of the legality of a judicially imposed detention.

After the Constitution was ratified, the availability of habeas corpus in the Federal courts was restricted to Federal prisoners, and the common law restrictions on the scope of the writ were generally observed. Unfortunately, however, the common law origins of the writ were generally observed. Unfortunately, however, the common law origins of the writ were gradually eroded during the last 100 years or so through statutory and case law development. During the last 30 years, the writ of habeas corpus has routinely served as a means for the lower Federal courts to review State criminal judgments on the grounds of alleged deprivation of Federal rights. In fact, the number of prisoners challenging the validity of their State Federal habeas corpus petitions rose nearly 700 percent from 1961 through 1982, according to a report prepared by the Bureau of Justice statistics. It is that appalling situation that this bill is designed to redress.

According to our country's leading legal scholars on Federal procedure, the single most controversial and friction-producing issue in the relationship between the Federal courts and the States is Federal habeas corpus for State prisoners. State courts resent having their decisions reviewed by Federal judges, who in turn are unhappy about the burden of reviewing thousands of mostly frivolous petitions.

Several Supreme Court Justices have strongly criticized the current system of Federal habeas corpus, and have called for basic limitations on its scope and availability. Chief Justice Burger has urged Congress to consider restricting the availability of Federal habeas corpus for State prisoners because, in his view, "the administration of justice in this country is bogged down with lack of finality of judgments in criminal cases." As Justice Powell observed over 10 years ago in his opinion in Schneckloth against Bustamonte:

> The present scope of habeas corpus tends to undermine the values inherent in our Federal system of government. To the extent that every State crominal judgment is to be subject indefinitely to broad and repetitious Federal oversight, we render the actions of State courts a serious Disrespect in derogation of the constitutional balance between the two systems.

It is to that very problem, so eloquently expressed by distinguished Supreme Court jurists, that this bill is addressed.

The bill establishes a standard for reviewing habeas corpus proceedings by according deference to State adjudications that are "full and fair." That would be a vast improvement over the current rules, which provide, through habeas corpus proceedings, for mandatory readjudication, and that frequently result in duplicative relitigation of claims that have already been fairly considered by State trial and appellate courts.

The bill also would resolve the major uncertainties about access to Federal collateral remedies after a failure to raise a claim properly in normal criminal proceedings. It does that by establishing "cause and prejudice" as the exclusive governing standard.

In addition, the bill would establish a 1-year time limit on excess to Federal habeas corpus for State prisoners, normally running from the time State remedies are exhausted. For similar

purposes, it would prescribe a 2-year time limit on applications for collateral relief by Federal prisoners, normally running from finality of judgment.

The bill also addresses two technical issues that need to be remedied. First, it would make it clear that habeas corpus petition can be denied on the merits, notwithstanding the petitioner's failure to exhaust available State remedies. That change would eliminate the waste of time and effort that currently occurs when a frivolous petition is dismissed by a Federal court on grounds of nonexhaustion of State remedies but is later brought back to Federal court following its unsuccessful presentation.

Second, the bill would change the current rule that gives a State prisoner in a habeas corpus proceeding repeated opportunities to persuade a Federal district judge and then a circuit judge that an appeal is warranted. Similarly, it would bring the procedure governing access to appeal in collateral proceedings involving Federal prisoners into line with the procedure employed for habeas corpus proceedings for State prisoners.

I believe that the Reform of Federal Intervention in State Proceedings Act of 1986 represents a rational, reasoned approach to a problem that has been developing for more than a century, a problem so great that it has led our country's leading jurists to ask us for specific legislative relief. I commend Senator THURMOND for his leadership role in introducing this necessary piece of legislation and I urge my colleagues to support the bill in order to facilitate the ability of our judicial system to dispense justice to all our citizens instead of unnecessarily wasting time and effort on a few people who exploit procedural loopholes in the law.

EXCLUSIONARY RULE LIMITATION ACT OF 1986

Mr. THURMOND. Mr. President, I send a bill to the desk, on behalf of myself and others, and ask that it be read for the first time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill S. 2302) to amend Title 18 to limit the application of the exclusionary rule.

Mr. THURMOND. Mr. President, I ask that the bill be read a second time.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be held at the desk.

S. 2302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Exclusionary Rule Limitation Act of 1986".

SEC. 2. (a) Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Limitation of the fourth amendment exclusionary rule

"Except as specifically provided by statute, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in a reasonable, good faith belief that it was in conformity with the fourth amendment to the Constitution of the United States. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) The table of sections of such chapter is amended by adding at the end thereof the following item:

"3505. Limitation of the fourth amendment exclusionary rule.".

Mr. DENTON. Mr. President, I rise today to join my distinguished colleague, the Senator from South Carolina [Mr. THURMOND] in strong support of a bill to modify the application of the exclusionary rule in Federal courts.

The bill would amend title 18 of the United States Code to allow otherwise admissible evidence to be used in Federal court proceedings, even if it was obtained through a violation of the fourth amendment to the Constitution, as long as the search or seizure which produced the evidence was "undertaken in a reasonable, good faith belief that it was in conformity with the fourth amendment. * * *"

The Supreme Court first held in the case of Weeks versus United States (1914) that evidence obtained in violation of the fourth amendment was inadmissible in a Federal criminal trial. Since its limited application in Weeks to exclude simple evidence of a crime, the exclusionary rule has been expanded to exclude contraband and the actual tools and instrumentalities of a crime. It has been further expanded to exclude evidence that was derived from other illegally seized evidence. Since the exclusionary rule is a judicially mandated rather than a constitutionally required response to fourth amendment violations, its reform through the legislative process is appropriate.

The primary, if not the sole, rationale for the application of the exclusionary rule is to deter fourth amendment violations by law enforcement personnel. The theory is that the exclusion of illegally seized evidence will deter law enforcement personnel from engaging in negligent or intentional practices that result in fourth amendment violations.

The problem arises when the rule is applied to exclude evidence seized in situations that a reasonably well-trained officer would not or could not have recognized as being in violation of the fourth amendment. The rule therefore loses any deterrent value it may have for more egregious violations of the fourth amendment. It simply results in a windfall for the criminal, who walks away unscathed despite the existence of reliable evidence of guilt.

If one considers the exclusion of evidence a "remedy" for one whose fourth amendment rights have been violated, then the problem is that it only rewards those who are actually guilty of a crime. It provides no recourse for innocent victims of police overaggressiveness, negligence, or intentional misconduct.

Mr. President, in deciding when the exclusionary rule should be applied, the Supreme Court has balanced the deterrent effect of the rule against the cost to society that would result from the distortion of the judicial process caused by depriving the prosecution of reliable, probative evidence of guilt. The bill would make clear the congressional determination that whatever minimal deterrent effect the exclusionary rule may have is outweighed by its cost to society in cases where the evidence to be excluded is the product of a search or seizure undertaken in a reasonable and good faith belief that it was in conformity with the fourth amendment.

In the 1984 case of United States versus Leon, The Supreme Court upheld the use of evidence seized by offices acting in reasonable reliance on a search warrant, issued by a detached and neutral magistrate, that was later found to be invalid. The Supreme Court recognized in Leon the "indiscriminate application of the exclusionary rule—impeding the criminal justice system's truth finding function and allowing some guilty defendants to go free—may well generate disrespect for the law and the administration of justice." The bill introduced today incorporates the ruling of the Supreme Court that the exclusionary rule should be modified to permit the introduction of evidence obtained by officers reasonably relying on a warrant issued by a detached and neutral magistrate. It also permits the use of evidence seized in warrantless searches where the seizing officer was acting in a reasonable and good faith belief that his conduct conformed with the fourth amendment.

The exclusionary rule will still be applied in cases where police conduct is objectively and patently unreasonable or where it is based on a warrant which was acquired through intentional and material misrepresentation. Thus, the effect of the bill is simply to limit the use of the exclusionary rule in those cases in which its cost to society is grossly disproportionate to the minimal deterrent effect it may have on law enforcement officers.

Mr. President, legislation in this area is long overdue. I strongly urge my colleagues to support this effort so that the 99th Congress will effect a needed modification of the exclusionary rule.

DEATH OF REPRESENTATIVE JOSEPH P. ADDABBO OF NEW YORK

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration. It is relative to the death of Representative ADDABBO.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 382) relative to the death of Representative Joseph P. Addabbo.

S. RES. 382

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Joseph P. Addabbo, late a Representative from the State of New York.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

Without objection, the Senate proceeded to consider the resolution.

Mr. MOYNIHAN. Mr. President, for the second time in a month flags fly at half-mast over the Capitol in honor of an esteemed public servant from the State of New York. In early March, New York and the Nation mourned the loss of Jake Javits, and now we pay tribute to another colleague, JOE ADDABBO.

During his quarter-century in the Congress, JOE ADDABBO never forgot that he had two constituencies—Queens and the Nation. He served both with the greatest distinction. The Sixth District and our Armed Forces are much the better for his presence.

On March 19, the Senate passed H.R. 4399, a bill to designate the Federal Office Building in Jamaica, Queens, as the Joseph P. Addabbo Building. The bill was signed into law by the President on March 27, 1986. It was a simple tribute; a small gesture for so respected a legislator.

His colleagues mourn the loss of a great friend. New York has lost a tireless champion. JOE will be hugely missed.

I ask unanimous consent that his obituary from the April 12, 1986, Washington Post be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

NEW YORK REPRESENTATIVE JOSEPH P. ADDABBO DIES

(By Bart Barnes)

Rep. Joseph P. Addabbo, 61, a New York Democrat who as chairman of the defense subcommittee of the House Appropriations Committee built a reputation as an articulate and forceful opponent of what he considered excessive military spending, died late Thursday night at Walter Reed Army Medical Center. He had cancer and recently had suffered a heart attack.

Mr. Addabbo, who had been in a coma since collapsing March 6, represented a district in Queens. He served for 25 years in the House of Representatives and since 1979 had been chairman of the defense appropriations subcommittee, the panel that acts on requests for all military spending. In that role he was often critical of high military officers who, he said, frequently shared with civilian bureaucrats a penchant for empire building and a narrowness of vision.

Despite his reputation as a critic of military spending, Mr. Addabbo always insisted he supported a strong defense policy. "But I don't take the Pentagon at their word," he once said. "I don't like the attitude of some members, 'Well, let's give them $20 million to play around with this year. Let's give them $40 million next year.' Three years later, the weapon doesn't work, and there's $100 million down the drain."

But Mr. Addabbo often found himself in a minority position on his own committee, most of whose members tended to have more hawkish views than he. More often than not he was on the losing side of defense-spending controversies.

He tried in 1982 to block funding for the MX missile but lost, both in his own subcommittee and in the full Appropriations Committee. He prevailed when he took his case to the floor of the House, although the House later reversed its position and work began on the missile.

In 1973 Mr. Addabbo sponsored the first antiwar resolution ever to pass the House of Representatives—the cutting off of funds for the bombing of Cambodia. He had supported the war in Southeast Asia during the Johnson administration and in the early years of the Nixon presidency but he subsequently changed his mind. He also opposed the B1 bomber and other * * *.

In 1984 he castigated the Defense Department for what he called "a complete breakdown of control over millions of dollars." This followed a report that accused the military of scrapping valuable equipment, then turning around and paying higher prices to buy identical items.

President Reagan called Mr. Addabbo "one of the lending players in the development of American military policy." He said the congressman was "widely respected for his knowledge of defense issues even by those who disagreed with him. His genial style was in keeping with the best traditions of American politics."

House Speaker Thomas O'Neill said Mr. Addabbo "worked diligently to ensure that America's defense was strong, efficient and effective. He demanded quality for each defense dollar."

New York Gov. Mario Cuomo called him a "great man whose commitment to integrity and excellence has improved the quality of life for all New Yorkers."

Mayor Edward Koch of New York ordered flags on city buildings to be flown at half staff until after Mr. Addabbo's funeral. The congressman, Koch said, "always strove to ensure that people of every race, religion and ethnic origin had a fair hearing and full representation in the halls of the Capitol."

A native of New York City, Mr. Addabbo graduated from the City College of New York and St. John's University Law School. He practiced law in Queens, participated in civic and community organizations, and headed Italian-American committees for various candidates.

But he never ran for public office until 1960, when the incumbent Republican representative from his district retired. With the help of John F. Kennedy's drawing power among Catholic voters, Mr. Addabbo won with 53.5 percent of the vote.

In the ensuing years the district changed from a predominantly middle class Catholic suburb to an area more closely resembling the inner city, with a population that was 65 percent black and Hispanic by the 1984 election.

During that time Mr. Addabbo established a record of steering defense contracts to Long Island-based industries and listening to * * *. He voted in favor of federal aid to education and the elderly, in favor of civil rights, and against measures to limit rights to abortion or allow prayer in public schools.

He won most bids for reelection handily, and in the campaigns of 1974 to 1982 had the Republican as well as the Democratic nomination. In 1984 he was challenged in the Democratic primary by Simeon Golar, a black real estate developer, who asked the voters to oust Mr. Addabbo on the argument that since the district had a black majority it should have a black representative. Mr. Addabbo won with 68 percent of the vote.

He is survived by his wife, Grace, and three children, Dominic, Dina and Joseph.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 382) was unanimously agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT—PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended, I am pleased to transmit herewith the 20th Annual Report of the National Endowment for the Humanities covering the year 1985.

RONALD REAGAN.

THE WHITE HOUSE, *April 14, 1986.*

MESSAGES FROM THE HOUSE

At 2:45 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 136. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with Sunday, April 13, 1986, as "National Garden Week"; and

S.J. Res. 315. Joint resolution designating May 1986 as "Older Americans Month."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 127. Concurrent resolution relating to predatory tied aid credits.

The message further announced that the House has agreed to the following resolution:

H. Res. 416. Resolution to the death of the Honorable Joseph P. Addabbo, a representative from the State of New York.

ENROLLED JOINT RESOLUTION SIGNED

The President pro tempore (Mr. THURMOND) announced that on today, April 14, 1986, he signed the following enrolled joint resolution, which had previously been signed by the Speaker of the House of Representatives:

S.J. Res. 261. Joint resolution to designate the week of April 14, 1986 through April 20, 1986, as "National Mathematics Awareness Week."

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 14, 1986, she had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 261. Joint resolution to designate the week of April 14, 1986 through April 20, 1986, as "National Mathematics Awareness Week."

MEASURES RE-REFERRED

Under the authority of the order of the Senate of April 11, 1986, the following bills were re-referred jointly to the Committee on Appropriations and the Committee on the Budget:

S. 2067. A bill to overturn the deferral of the fiscal year 1986 Urban Development Action Grant and Community Development Block Grant Program;

S. 2074. A bill disapproving the proposed deferral of budget authority for community development block grants; and

S. 2075. A bill to overturn the deferral of Urban Development Action Grants funds.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2950. A communication from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the act of September 30, 1950 (Public Law 874, 81st Congress), and for other purposes; to the Committee on Labor and Human Resources.

EC-2951. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Bilingual Education in the Nation, 1986"; to the Committee on Labor and Human Resources.

EC-2952. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Compliance Report, Fiscal Year 1986—Balanced Budget and Emergency Deficit Control Act of 1985"; to the Committee on Governmental Affairs.

EC-2953. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Urban Mass Transportation Report for the Fourth Quarter of Fiscal Year 1985; to the Committee on Banking, Housing, and Urban Affairs.

EC-2954. A communication from the D.C. auditor, transmitting, pursuant to law, a report entitled "Annual Audit of the Boxing and Wrestling Commission for Fiscal Year 1985"; to the Committee on Governmental Affairs.

EC-2955. A communication from the D.C. auditor, transmitting, pursuant to law, a report entitled "Review of Receipts and Disbursements of the Public Service Commission's Agency Fund"; to the Committee on Governmental Affairs.

EC-2956. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the annual report of the Office under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2957. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2958. A communication from the general counsel of the Department of Defense, transmitting a draft of proposed legislation to terminate the status as uniformed services treatment facilities of all former Public Health Service hospitals and stations and repeal requirements for ongoing studies, demonstrations and reports associated with such facilities; to the Committee on Armed Services.

EC-2959. A communication from the Secretary of State, transmitting, pursuant to law, a report on the situation in El Salvador; to the Committee on Foreign Relations.

EC-2960. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the administration of bankruptcy estates within the Judiciary.

EC-2961. A communication from the general counsel of the Department of Defense, trasmitting a draft of proposed legislation to repeal the Veterans' Educational Assistance Act of 1984, and for other purposes; to the Committee on Veterans' Affairs.

EC-2962. A communication from the Secretary of Transportation transmitting, pursuant to law, the annual report on the administration of the Deepwater Port Act of 1974; jointly, pursuant to 33 U.S.C. 1501, to the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works.

EC-2963. A communication from the Director of the Office of Civilian Radioactive Waste Management, DOE, transmitting, pursuant to law, the Office's 1985 annual report; jointly, pursuant to Public Law 97-425, to the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works.

EC-2964. A communication from the Secretary of Labor transmitting, pursuant to law, notice of the determination of the necessity to extend the period of performance and to provide additional funding for the completion of ERISA cases concerning the Teamsters' central states pension and health and welfare funds; to the Committee on Governmental Affairs.

EC-2965. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation to extend and amend Native American Programs Act programs; to the Select Committee on Indian Affairs.

EC-2966. A communication from the Secretary of Education transmitting, pursuant to law, a report on program reviews of 379 programs funded under the Indian Education Act; to the Select Committee on Indian Affairs.

EC-2967. A communication from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to terminate the State Justice Institute; to the Committee on the Judiciary.

EC-2968. A communication from the Deputy Secretary of Defense transmitting, pursuant to law, a report on the new GI bill education benefits program; to the Committee on Veterans Affairs.

EC-2969. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on financial support for disabled infants with life-threatening conditions; to the Committee on Finance.

EC-2970. A communication from the Chairman of the National Advisory Council on International Monetary and Financial Policies, transmitting pursuant to law, the Council's special report on U.S. membership in the Multilateral Investment Guarantee Agency; to the Committee on Foreign Relations.

EC-2971. A communication from the Administrator of the Agency for International Development transmitting a request for authorization and appropriation for a new program for Northern Ireland and Ireland and a fiscal year 1986 and 1987 supplemental appropriations for United States contributions for the proposed international fund to support the Anglo-Irish Agreement on Northern Ireland; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services, without amendment:

S. 2295: An original bill to amend title 10, United States Code, to reorganize and strengthen certain elements of the Department of Defense, to improve the military advice provided the President, the National Security Council, and the Secretary of Defense, to enhance the effectiveness of military operation, to increase attention to the formulation of strategy and to contingency planning, to provide for the more efficient use of resources, to strengthen civilian authority in the Department of Defense, and for other purposes (Rept. No. 99-280).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself, Mr. KERRY, Mr. ANDREWS, Mr. INOUYE, Mr. MATSUNAGA and Mr. STAFFORD):

S. 2294. A bill to reauthorize certain programs under the Education of the Handicapped Act, to authorize an early intervention program for handicapped infants, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GOLDWATER (for himself, Mr. NUNN, Mr. THURMOND, Mr. COHEN, Mr. QUAYLE, Mr. EAST, Mr. WILSON, Mr. GRAMM, Mr. HART, Mr. EXON Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. LEAHY, Mr. JOHNSTON, Mr. BOREN, and Mr. ROCKEFELLER):

S. 2295. An original bill to amend title 10, United States Code, to reorganize and strengthen certain elements of the Department of Defense, to improve the military advice provided the President, the National Security Council, and the Secretary of Defense, to enhance the effectiveness of military operation, to increase attention to the formulation of strategy and to contingency planning, to provide for the more efficient use of resources, to strengthen civilian authority in the Department of Defense, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. BRADLEY:

S. 2296. A bill to provide financial assistance to local educational agencies or schools of such agencies having centers of excellence in civic education; to the Committee on Labor and Human Resources.

By Mr. STEVENS. (by request):

S. 2297. A bill to amend the Atlantic Tunas Convention Act of 1975 to authorize appropriations for fiscal years 1987 and 1988; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN (for himself, Mr. GLENN, and Mr. LEVIN):

S. 2298. A bill to make a technical correction to the Department of Defense Authorization Act, 1986, relating to the extension of an enlistment bonus program; to the Committee on Armed Services.

By Mr. INOUYE:

S. 2299. A bill for the relief of Valerie S. Ford of Richmond, VA; to the Committee on Armed Services.

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. MITCHELL, and Mr. DURENBERGER):

S. 2300. A bill to amend the Toxic Substances Control Act so as to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in Federal and other buildings, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND (for himself, Mr. DECONCINI, Mr. LAXALT, Mr. HATCH, and Mr. DENTON):

S. 2301. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; read the first time.

By Mr. THURMOND (for himself, Mr. DECONCINI, Mr. LAXALT, Mr. HATCH and Mr. DENTON):

S. 2302. A bill to amend title 18 to limit the application of the exclusionary rule; read the first time.

By Mr. CHILES:

S.J. Res. 319. Joint resolution commemorating the twenty-fifth anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny; to the Committee on the Judiciary.

By Mr. MITCHELL:

S.J. Res. 320. Joint resolution to designate April 17, 1986 as "National Pension Day"; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. ABDNOR, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. CRANSTON, Mr. DENTON, Mr. DOLE, Mr. DURENBERGER, Mr. HARKIN, Mr. HATCH, Mrs. HAWKINS, Mr. HEINZ, Mr. HOLLINGS, Mr. KERRY, Mr. LEVIN, Mr. MATHIAS, Mr. MATTINGLY, Mr. METZENBAUM, Mr. NICKLES, Mr. NUNN, Mr. PRYOR, Mr. SIMON, Mr. WARNER and Mr. WILSON):

S.J. Res. 321. Joint resolution to designate October 1986 as "National Down Syndrome Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. D'AMATO (for himself and Mr. MOYNIHAN)):

S. Res. 382. Resolution relative to the death of Representative Joseph P. Addabbo, of New York; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER (for himself, Mr. KERRY, Mr. ANDREWS, Mr. INOUYE, Mr. MATSUNAGA, and Mr. STAFFORD):

S. 2294. A bill to reauthorize certain programs under the Education of the Handicapped Act, to authorize an early intervention program for handicapped infants, and for other purposes; to the Committee on Labor and Human Resources.

(The remarks of Mr. WEICKER and the text of the legislation appear earlier in today's RECORD.)

By Mr. BRADLEY:

S. 2296. A bill to provide financial assistance to local educational agencies or schools of such agencies having centers of excellence in civic education; to the Committee on Labor and Human Resources.

CENTERS OF EXCELLENCE IN CIVIC EDUCATION ACT

Mr. BRADLEY. Mr. President, when the word "bicentennial" is mentioned, most Americans conjure up very fond memories of tall ships, fireworks, celebrations, and festivities. In 1976, we held such a celebration of national scale on the 200th anniversary of the signing of the Declaration of Independence, and Americans showed their pride in our 200 years of freedom.

Why do we as a people like to celebrate the signing of the Declaration of Independence? One hundred and twenty seven years ago, Abraham Lincoln said, ". . . we hold this annual celebration to remind ourselves of all the good done in this process of time, of how it was done and who did it, and how we are historically connected with it; and we go from these meetings in better humor with ourselves—we feel more attached the one to the other, and more firmly bound to the country we inhabit . . ."

The bicentennial of the Declaration of Independence gave Americans a chance to pause for a moment and reflect on the importance of the actions in 1776 and the shared values on which this Nation is based.

Mr. President, a new bicentennial will soon be upon us—the 200th anniversary of our Constitution and Bill of Rights. The bicentennial of the Constitution will give Americans another opportunity to celebrate that which binds us together as a people.

The deepest origins of our Constitution date back to the traditions of Greece and Rome. But our particular constitutional concerns for individual liberty, for the rule of law, for equal justice and for the limits to the use of government power through our system of federalism and checks and balances are, in many respects, uniquely American. Our Constitution reflects the values on which our American system of governance was based. It is my hope that this bicentennial will give all Americans an opportunity to do more than celebrate. I hope we can reflect on the values that serve to bind us together as a people.

Mr. President, I strongly believe that the forum for much of this discussion should be in our Nation's schools.

Both Washington and Jefferson argued that one of the most important roles of the schools, given our pluralistic society, was to educate youth on the values that bind us together as a people. Thomas Jefferson said that ". . . if you expect a nation to be ignorant and free, you expect what never was and never will be . . ." He argued that a knowledgeable citizenry that accepts its civic responsibilities—responsibilities such as participation in our domocratic institutions and an acceptance of the policies which promote the common good—is central to the preservation of our Nation.

One way to help achieve these lofty goals is by promoting civic education. When I use the term civic—or citizenship—education, I am referring to a number of activities that are aimed at educating students about what it means to be an American, what the rights and responsibilities of citizenship are, and how students can take greater responsibility in the actual activities of government. Civic education tries to answer the following questions: What are the legitimate forms of authority? How, in a pluralistic society, can we establish fair and uniform laws? How can we ensure due process? How can we ensure that citizens play their parts as informed and responsible members of our democratic system?

There are many other democracies in the world, but Americans believe that we are unique in our special freedoms. But as D.H. Lawrence once noted, ". . . it is never really freedom until you positively decide what you want to be." Citizenship education programs in our schools should help students decide positively what they want to be—as individual citizens and collectively as a people.

Mr. President, there are a number of schools across the country that have established programs to try to meet this end. For example, in my home State of New Jersey, the Parsippany school district has established a program to help second and third graders examine the importance of the rule of law. Students discuss why laws are needed, how they are changed, and why laws must be fair. The students learn, not only by discussion, but by participating in the rulemaking of the school itself. These very young students are learning about the responsibilities of being a citizen who must live by the law with some very positive results. Parsippany has witnessed a significant decline in discipline problems since the program was instituted. Why? Because students have developed a commitment to responsible behavior. They have learned to understand the importance of the rule of law—for themselves and for their community. Who benefits? Both the individual and the community at large.

Another exemplary program is going on the the Sacramento school district in California. Over 200 local attorneys and judges have volunteered for various activities, such as holding mock trials and moot courts in the schools, to show students how our judicial system tries to arrive at justice. In addition, over 1,000 high school students are working as tutors to elementary school students on citizenship education projects. The elementary school students are not the only people benefiting from these activities; the high school students, in providing this service, are helping to discharge their responsibilities to the community at large.

A third example is Long Beach, where, with the help of the Center for Civil Education, the schools are helping their young people explore the values established in our Constitution by reenacting the debates of 200 years ago between the Federalists and Anti-Federalists. In addition, the Long Beach Lawyers Auxiliary is working with classes to act out real Supreme Court cases to show how conflicts are resolved at the Federal level.

Sadly, Mr. President, these exceptional programs are just that—more the exception than the rule. In some respects, I think many of our schools have lost some of their sense of mission to instill their students with a sense of values and mutual purpose that Jefferson spoke so eloquently about 200 years ago. But I believe that the bicentennial of the Constitution offers us the opportunity to remind young Americans about the rights as well as the responsibilities of citizenship. And what better vehicle for sending this message than our school system—the institution charged by Jefferson with part of the responsibility for instilling youth with this sense of mutual purpose?

And that is why today I am introducing in the Senate legislation to establish Centers of Excellence in Civic Education throughout the United States.

Mr. President, we know that many schools are already deeply involved in a variety of activities to promote the civic competence and civic responsibilities of their students. But it is important to publicize these local efforts so that other schools can learn from them. One way to accomplish that is to search out these outstanding schools and showcase them to the rest of the Nation.

The bill requires the Secretary of Education, in consultation with the Director of your Commission, to identify 10 to 20 schools that have exemplary programs and establish them as "Centers of Excellence" in Civic Education. These centers would be individual schools or school districts in the United States that have developed outstanding programs designed to develop both civic competence and civic responsibilities among their students. The Secretary shall be empowered to award the selected schools with grants of $25,000 to $75,000 a year to enable them to showcase their programs to other schools in their geographic area.

To receive funding, the selected schools must agree to form a steering commission of representatives from the public and private sectors to assist in the civic education activities of the school and to provide assistance to other school systems in their geographic area that are interested in improving their own civic education programs.

Finally, the bill envisions that an annual conference be held for the selected schools to exchange ideas and experiences of the various projects commemorating the bicentennial of the Constitution and other civic education projects that are currently being conducted throughout the United States.

What will this accomplish? A relatively small commitment of Federal funds—roughly $1 million a year—will help disseminate information about the very best programs that our schools have developed. And the success of this entire effort can, I believe reinforce the values that have made our particular form of democracy so vibrant and resilient.

Am I talking about forcing massive changes in the way that schools are doing their jobs? Of course not. We at the national level can't—and shouldn't—dictate policy to local schools. But when we have the opportunity, we can and should press schools to better meet the needs of their students and the Nation as a whole. I think this proposal is one very modest step in that direction.

I ask unanimous consent that a summary of the bill as well as the text of the bill be printed in the RECORD at the close of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Centers of Excellence in Civic Education Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to local educational agencies or individual schools of such agencies having centers of excellence in civic education.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term "local educational agency" has the same meanging given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

(3) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(4) The term "school" means an elementary or secondary school.

(5) The term "Secretary" means the Secretary of Education.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

EXCELLENCE IN CIVIC EDUCATION GRANTS AUTHORIZED

SEC. 4. (a) The Secretary is authorized, in accordance with the provisions of this Act, to make grants to local educational agencies and to individual schools of such agencies for centers of excellence in civic education.

(b) There is authorized to be appropriated $1,000,000 for the fiscal year 1987 and for each fiscal year ending prior to October 1, 1991.

IDENTIFICATION AND SELECTION OF RECIPIENTS

SEC. 5. (a) The Secretary, in consultation with the Director of the Commission on the Bicentennial of the United States Constitution, shall establish procedures to identify in each fiscal year not less than 10 nor more than 20 centers of excellence in civic education administered by local educational agencies or individual schools of such agencies.

(b)(1) In establishing procedures under this section, the Secretary shall select such agencies or schools with centers which have developed exemplary programs designed to develop both civic competence and civic responsibilities among their students.

(2) In establishing such procedures, the Secretary shall make every effort to ensure that the selected schools are geographically balanced and that at least one-third of the local educational agencies or the schools of such agencies selected are agencies or schools which serve high concentrations of low-income students, minority students, or students with limited English language proficiency.

(3) The Secretary shall make grants to the local education agencies or the schools of such agencies that are selected of not less than $25,000 or more than $75,000 for each year that sufficient appropriations are available.

ASSURANCES

SEC. 6. (a) Each local education agency and each school of such agency selected for assistance under this Act shall provide assurances that it will—

(1) appoint a director who will work on civic education activities of the center at least half time; and

(2) be advised by a steering committee of representatives of the public and private sector of the community served by the agency nor school; and

(3) furnish assistance to other local educational educational agencies within the area served by the agency or school; and

(4) furnish other assurances as the Secretary deems appropriate.

DISSEMINATION AND EXCHANGE OF CIVIC EDUCATION IMPROVEMENTS

SEC. 7. The Secretary, in consultation with the Director of the Commission on the Bicentennial of the United States Constitution, shall convene a conference in each fiscal year including representatives of the agencies and schools selected in each fiscal year pursuant to section 5, together with other experts in civic education to exchange ideas with respect to improvements in civic education programs. The Secretary shall provide for the dissemination of such information as the conference deems appropriate.

CENTERS OF EXCELLENCE IN CIVIC EDUCATION ACT

Funding through the Department of Education in coordination with the Commission on the Bicentennial of the United States Constitution. $1 million a year authorized for fiscal years 1987–1991.

The Secretary, in consultation with the Director of the Commission, is directed to identify 10 to 20 schools that have exemplary civic education programs and establish them as Centers of Excellence in Civic Education. These Centers must be either individual schools or local education agencies (LEA's) in the United States that have developed exemplary programs designed to develop both civic competence and civic responsibilities among their students.

The Secretary shall award these schools with grants of $25,000 to $75,000 a year to enable the institution to showcase its activities to other schools in the geographic area in order to help them develop programs to meet the needs of their students.

The Secretary shall make every effort to ensure that the selected schools are geographically balanced and that at least one third of the selected schools or LEA's serve high concentrations of low income or minority students or students with limited English language proficiency.

To receive funding, the selected schools or LEA's must agree to the following activities: appoint a director who will work at least half time on civic education activities; form a steering committee of representatives from the public and private sectors to assist in the civic education activities of the school; provide assistance to other school systems in the geographic area interested in improving their civic education programs.

The Secretary, in consultation with the Director of the Commission, shall also hold an annual conference for the selected schools and other experts to exchange ideas and experiences of various civic education projects currently being conducted throughout the United States.

By Mr. STEVENS (by request):

S. 2297. A bill to amend the Atlantic Tunas Convention Act of 1975 to authorize appropriations for fiscal years 1987 and 1988; to the Committee on Commerce, Science, and Transportation.

ATLANTIC TUNAS CONVENTION ACT AUTHORIZATION

● Mr. STEVENS. Mr. President, today I am introducing legislation proposed by the administration to reauthorize the Atlantic Tunas Convention Act. This act implements the International Convention for the Conservation of Atlantic Tunas [ICCAT], a multinational treaty for the conservation of tuna in the Atlantic Ocean.

Both the ICCAT and the Atlantic Tunas Act are directed toward maintaining the population of Atlantic tuna at levels which will permit maximum sustainable catches. Under the ICCAT, a Commission comprised of representatives from member nations convenes biannually. The Commission collects and analyzes statistical information relating to the current conditions of the tuna fishery, recommends further studies, and coordinates the investigation programs of the member nations, and recommends harvesting levels for the tuna resource.

Reauthorization of the Atlantic Tunas Convention Act would assure that the United States effectively implements the ICCAT agreement and continues to strive for effective conservation and management of the tuna resource in the Atlantic Ocean. Authorization for appropriations under the Atlantic Tunas Conservation Act expires after fiscal year 1986. The administration's bill proposes to extend authorization of the act through fiscal year 1988.●

By Mr. BENTSEN (for himself, Mr. GLENN, and Mr. LEVIN):

S. 2298. A bill to make a technical correction to the Department of Defense Authorization Act, 1986, relating to the extension of an enlistment bonus program; to the Committee on Armed Services.

CORRECTION TO RESERVE ENLISTMENT LAW

Mr. BENTSEN. Mr. President, sometimes the calendar moves faster than the Congress. Last year, when we finally approved the massive defense authorization bill on November 8, we extended the authority to provide enlistment bonuses for people entering the National Guard and Reserve in critical skill areas.

Unfortunately, the law which originally set up that important bonus technically, expired on September 30. There was thus a gap of nearly 6 weeks during which enlistees were not allowed to be paid the bonus for which they were otherwise eligible.

I learned about this lapse in the law from a Texan whose son joined the National Guard last October and expected to receive the bonus, but then was denied it on this technicality. I considered this an unfortunate oversight and sought to determine just how many people might have been affected by this legal gap.

Recently the Defense Department advised me that more than 4,300 National Guard and Reserve personnel were denied the bonuses for which they were otherwise eligible. Moreover, the $5.4 million which should have been paid had already been budgeted for, so corrective legislation will not require any additional funding.

Today I am introducing legislation along with the distinguished Senators from Ohio [Mr. GLENN] and Michigan [Mr. LEVIN] to make the necessary technical correction in the law so that these bonuses can be paid.

This bill is needed not only to correct an inequity but also to avoid harming Guard and Reserve recruiting efforts, particularly in critical skill areas.

Mr. GLENN. Mr. President, I am pleased to join my colleague, Senator BENTSEN, in introducing legislation to correct an inequity which came about due to the delay in enactment of the fiscal year 1986 Defense Authorization Act.

The previous legislative authority which permitted the Reserve components to offer enlistment bonuses to individuals who enlist in critical skills in National Guard and Reserve personnel expired on September 30, 1985.

Section 642 of the fiscal year 1986 Defense Authorization Act extended the Defense Department's authority to pay this bonus for an additional 3 years. The House-Senate conference on this bill concluded in July of 1985, and the conference report on this bill passed the Senate on July 30, 1985, well before the expiration date of the current bonus authority. It was obviously the intention of the Congress that there be no lapse in this bonus authority.

Unfortunately, due to the delay in adopting the conference report on the fiscal year 1986 Defense authorization bill in the House, the fiscal year 1986 Defense authorization bill was not signed into law by the President until November 8, 1985. Since the legislative authority for this enlistment bonus technically expired on September 30, anyone who enlisted in the National Guard or Reserve in a critical skill between September 30 and November 8, 1985, and who otherwise would have been eligible for this bonus, cannot receive the bonus because of this lapse in authority.

The military services had already budgeted, and the Congress has already appropriated, the necessary funds to pay this bonus for the full 12-month year, so no additional funding will be required to correct this problem.

The bill that Senator BENTSEN and I are introducing today simply corrects this inequity and permits the Department of Defense to pay these bonuses to those who enlisted during the period September 30 through November 8, 1985, and who otherwise would have been eligible to receive an enlistment bonus.

I commend Senator BENTSEN for bringing this matter before the Senate.

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. MITCHELL, and Mr. DURENBERGER):

S. 2300. A bill to amend the Toxic Substances Control Act so as to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in Federal and other buildings, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL BUILDING ASBESTOS HAZARD ABATEMENT ACT

Mr. STAFFORD. Mr. President, I am introducing today a bill entitled the "Federal Building Asbestos Hazard Abatement Act of 1986." The purpose of the bill is to protect the public from an unseen but deadly health hazard—airborne asbestos fibers in Federal and other buildings.

Asbestos is a proven human carcinogen. Its deadly fibers can penetrate deep into the lungs, leading to lung cancer, mesothelioma, and other serious diseases 20 to 40 years after exposure. According to the National Academy of Sciences, "much of the more than 30 million metric tons of asbestos used in the United States since 1900 is still present in its original application and provides a potential for exposure." Asbestos-containing building products include sprayed or troweled insulation and fireproofing, boiler and pipe insulation, fireproof plaster and wallboard, and acoustical ceiling. When these materials are damaged or disturbed, they may release asbestos fibers into the air.

It was established at hearings on this subject before the Committee on Environment and Public Works that asbestos in buildings often does not present an immediate threat to health because it is intact. In these cases, an appropriate response often is an operation and maintenance plan designed to assure that it will not be damaged and to assure that any repairs or renovations will be properly conducted. Attempts to remove the asbestos, especially if the attempts are improperly done, actually can increase the level of risk. In other cases, the asbestos already is damaged and hazardous, in which case abatement is called for. Abatement may be accomplished in some cases by enclosure or encapsulation, but in other cases removal is necessary.

Mr. President, the Environmental Protection Agency has known for years about the serious health hazards caused by asbestos in building materials. In 1979, the Agency began trying to get hazardous asbestos out of schools. At the present time, schools are required to inspect for hazardous asbestos and notify parents and employees if it is found. But not even this small step has been taken with regard to other types of buildings. A 1984 EPA survey of public and commercial buildings estimated that 20 percent of all such buildings, about 733,000 buildings, contain friable, easily crumbled, asbestos. About one-quarter of these, or 192,000 buildings, had sprayed/troweled asbestos, which usually is the most dangerous situation.

Despite the obvious dangers presented by asbestos in buildings, EPA has not set any requirements for inspection or for management or abatement of asbestos hazards.

The lack of standards and requirements has allowed a dangerous situation to develop. Fly-by-night contractors have taken advantage of legitimate public health concerns by persuading building owners to undertake unnecessary and expensive asbestos removal projects. Often the poor quality of their work has made the situation worse.

The bill would attack this important public health problem by:

Requiring EPA to set standards for asbestos detection, management, abatement, and disposal;

Establishing contractor accreditation programs to assure the availability of competent contractors;

Requiring that Federal buildings be inspected and appropriate action taken; and

Requiring EPA to identify classes and categories of non-Federal buildings to be subject to these requirements, based on various factors that relate to the likely degree of health hazard.

Mr. President, the kinds of problems that have developed due to a lack of standards and requirements governing asbestos projects were brought out very clearly in an article in the Wall Street Journal of March 5, 1986. I ask unanimous consent that this article be reprinted in the RECORD at this point, followed by the bill and a description of its provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 5, 1986]

BAD RIDDANCE: RIPPING OUT ASBESTOS ENDANGERS MORE LIVES AS LAWS ARE IGNORED

(By Jonathan Dahl)

The Environmental Protection Agency doesn't have to look far to find people getting exposed to cancer-causing asbestos. Right across the street from its Philadelphia office, the agency caught construction workers ripping out asbestos insulation and heaving it into outdoor dumpsters.

"We could see all this asbestos dust blow by us," says an EPA spokesman. "It made us wonder how the stuff was being removed elsewhere."

The EPA isn't wondering anymore. Since that incident in 1984, shoddy asbestos removals have been alarmingly common in buildings across the country. As a result, one of the nation's greatest occupational tragedies is being repeated. More than 100,000 workers have died because they inhaled asbestos particles while installing in-

sulation years ago. Now, desite publicity about those deaths, the deadly cycle is starting over again. This time, the eventual victims are the workers ripping out asbestos.

"It was bad enough when this happened and we didn't know the risks," says Dr. Irving Selikoff, an occupational-health expert at the Mount Sinai Medical Center in New York. "But now that we know, my God, we shouldn't let this be happening again."

A NATIONAL PROBLEM

Federal and state agencies cited more than 1,300 asbestos violations last year, and a government survey shows that at least 25% of removals are fouled up. Violations have occurred in schools, in apartments and even on Ellis Island in New York and on the grounds of the vice president's residence in Washington. They happen when asbestos cleanup is the main job and when it isn't. Most buildings constructed before 1970 have asbestos, and a health threat exists—even to passers-by—every time one is renovated or demolished. "It is a national problem," says Terrell Hunt, the EPA's highest-ranking criminal lawyer.

Some contractors don't know that they are tearing out asbestos. Others intentionally skip precautions or use slipshod methods. One contractor was sued for hiring dozens of homeless people off the street to remove asbestos from a San Antonio, Texas, hotel. And while the EPA recently beefed up its efforts to deter hazardous removals, experts say the laws pertaining to asbestos still are weak and poorly enforced. Because of the laws' inadequacies, even workers who follow guidelines might still die from asbestos poisoning.

"There are just no standards in the business. Some people do it right, but I've seen some abuses that would make your hair stand on end," says David Kimbrell, a former president of the National Association of Asbestos Abatement Contractors, a trade group based in Washington.

Ironically, some of the removal jobs aren't even necessary. Asbestos is lethal: it ranks only behind cigarettes as the leading cause of cancer. And while most of its uses are banned today, it is everywhere. Some 30 million tons of the fibrous mineral was mixed into plaster to insulate walls, pipes and ceilings during the past hundred years. But asbestos needs to come out only when it is old and crumbling. That is when the mineral's tiny particles, which cause lung cancer and other respiratory diseases, are released into the air.

Removing insulation without disturbing particles is tricky. The federal government doesn't require that asbestos come out, but it has issued reams of complicated cleanup rules. Insulation is supposed to be sprayed with water and stashed in airtight containers. Special air-circulating machines are recommended. And workers must don face masks and gear that looks like space suits. "There's almost a science to doing it correctly," says Edward Swoszowski, an indoor-air-quality consultant in Norwalk, Conn.

But many removals have been less than scientific. In the building across from the EPA's Philadelphia office, workers were gathering up asbestos debris with brooms and doing the job "the way you'd clean up your garage," says Ben Mykijewycz, an agency inspector. Eventually, the Justice Department sued the building's owner, Liberty Square Associates Ltd., for allegedly violating air-pollution laws. The owner paid a $50,000 fine last March to settle the suit, but made no admission of wrongdoing. A Justice Department suit is pending against the contractor.

COVERED WITH DUST

In another case, the EPA says it found eight teen-agers early last year yanking out asbestos with their bare hands in an abandoned school that was being converted into a condominium in Salem, Mass. The Justice Department has filed a suit against the developer, Granite Development Co. Company officials say they didn't realize that asbestos was in the school. Neither did the youths employed to remove it. "They were covered with white dust," recalls EPA inspector Bridget McGuiness. "They started asking me, 'Is this bad?' "

Nobody knows how many bad jobs are occurring, but the Occupational Safety and Health Administration found violations in * * * of 806 removal jobs that it inspected last year. The EPA estimates that it learns of only half of the asbestos removals; the agency is supposed to be notified of every instance. "If they're not notifying the EPA, they're probably not doing" the job right, says Patrick R. Tyson, the acting assistant secretary of OSHA. "I'm afraid a lot of people aren't handling it properly."

Most of those people won't feel any ill effects from asbestos exposure for a long time. As deadly as they are, asbestos diseases take five to 40 years to develop. And it isn't known how much exposure is harmful. OSHA estimates that 1.4 million construction workers risk becoming asbestos victims of the future, as do thousands of carpenters, electricians and others who work with insulation. Even passers-by may face a health threat. "Try to walk by [a construction site] without breathing the dust," says Charles Elkins, an acting assistant administrator of the EPA. "If it's asbestos, you're in trouble."

Some victims of asbestos removals are already getting sick. For 15 years, Dennis Burke wondered whether the insulation he was ripping out at construction jobs contained asbestos. "but if you complained, you'd get fired," he says. Now, Mr. Burke, 38 years old, has asbestosis, an incurable lung disease that causes shortness of breath. And he is still a construction worker; he can't find any other job.

Other victims could well be members of families already stricken by asbestos disease. Daniel O'Toole thought it was bad enough to have asbestosis; the 63-year-old former iron worker from Fort Howard, Md., was forced to retire early, and he can't take long walks. But last April, his son Patrick discovered he had swept up asbestos at a steel mill-the same mill in which Daniel O'Toole worked 18 years ago. "It's incredible, but my son was probably exposed to the same pipes I put in," Mr. O'Toole says.

Contractors complain that unless a building's owner hires them specifically to remove asbestos, they often don't realize that they are working with it. Asbestos in sulation, which sometimes looks like plaster of Paris, isn't always recognizable.

But some people have a hard time claiming ignorance. In late 1984, the EPA says, inspectors went out three times to warn Maurice Fabiani, a developer, about shoddy asbestos removals at a powerhouse in Oakville, Conn. All they got was a lecture: "He told us we were being nitpicky," says Andrew Lauterback, a special assistant U.S. attorney. Mr. Fabiani, for his part, apparently wasn't too picky about where he left his asbestos. The EPA says it found a pile of it in an open dump behind some houses. Inspectors had to shoo away children playing in it.

The matter was serious enough to draw the first prison sentence ever in an asbestos case. Through his attorney, Mr. Fabiani contends he shouldn't be blamed for a contractor's work. But he nevertheless pleaded guilty to violating air-pollution laws, paid a $25,000 fine and, in January, served 30 days in prison. The contractor, Peter J. Vileisis, pleaded guilty, was fined $25,000 and received a one-year suspended sentence.

Some contractors ignore precautions because they don't think asbestos is harmful, particularly since inhaling the fibers doesn't cause immediate injury. Other contractors cut corners to increase profits. Certainly, the work is lucrative: Three contractors may get more than $1 million to take out asbestos from a three-story school building in Atlanta. "There's a whole bunch of hustlers out there trying to make a quick buck who will end up killing themselves and others," says U.S. Rep. James Florio, a New Jersey Democrat interested in the safe handling of asbestos.

A fast buck is what 166 workers allege motivated the contractor that renovated the St. Anthony Hotel in San Antonio in 1983. In a lawsuit, the workers assert that the contractor hired them off the street without telling them that asbestos was being removed. Most say they wore bandannas over their mouths, or nothing at all, to protect themselves from the dust. "Now, every time I get a cold in my chest, I think uh-oh, this is it," says Daniel Cady, 29, who was one of the workers. He had been recruited for the job while hitchhiking through Texas.

The contractor. Planned Management International Inc., denies exposing the workers to asbestos. But OSHA fined the company $1,500 for not posting warnings or giving workers respirators. And this month the company, the construction manager and the hotel's owner settled the lawsuit. They won't discuss the terms, but the workers' attorney says his clients are receiving a total of $1.66 million.

EPA officials say that bad practices persist because neither the federal government nor 39 states require asbestos removers to be trained or licensed. New York, one of the few states with training provisions, requires contractors only to watch a 40-minute filmstrip that regulators concede is inadequate. "A barber has to go to school, but someone can remove a hazardous substance and have no experience and no training," says Wolfgang Brandner, the EPA's regional asbestos coordinator in Kansas City, Kan.

What's more asbestos regulations are flawed. OSHA figures that even if its standards were followed to the letter, 64 of every 1,000 workers who remove asbestos would still eventually die from overexposure. That is because the current exposure standard is two asbestos fibers per cubic centimeter of air—about four times the exposure the agency currently thinks is safe. OSHA is trying to change the standard, but "people think they're protected by these laws when they're not," say James Fite, the president of the White Lung Association, a nonprofit group in Baltimore that represents asbestos victims.

But the most frequently cited problem with asbestos laws is the way they are enforced. The EPA and OSHA inspect just a fraction of asbestos-removal jobs; many contractors have never had a job inspected. And both federal agencies routinely let violators off with small fines or none at all. OSHA's Dallas-area office, for example,

hasn't levied a fine in any of its 12 asbestos cases in the past three years.

But officials in Dallas office say they are shorthanded—the office doesn't have anyone assigned just to asbestos cases. They also say some contractors conceal violations by working at night or on weekends. But the result is that repeat violators are common. And legitimate contractors say unscrupulous competitors have a free rein. "It's basically a voluntary-compliance system," concludes Neil Wilson, the president of National Environmental Engineering Inc., an asbestos-removal company in Michigan City, Ind.

In response to such criticism, the EPA recently vowed to vigorously enforce asbestos laws. The Justice Department, as part of that effort, last month filed 11 publicized lawsuits alleging serious asbestos violations against the state of Florida, Conrail and the school system of Ankeny, Iowa, among others. And at least 10 states are considering bills that would regulate asbestos removers.

But such steps come far too late for thousands of workers who recently may have been exposed to asbestos—a known carcinogen for at least a decade. As Patrick O'Toole, the construction worker in Maryland, puts it, "My father was done wrong, and now I'm done wrong. When will it stop?"

S. 2300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.

The Toxic Substances Control Act is amended by adding at the end thereof the following:

"TITLE II—FEDERAL BUILDING ASBESTOS HAZARD ABATEMENT

"SEC. 201. SHORT TITLE.

"This title may be cited as the "Federal Building Asbestos Hazard Abatement Act of 1986".

"SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSES.

"(a) FINDINGS.—

"(1) The Congress finds that—

"(A) hazardous asbestos is present in many Federal buildings and other buildings that are accessible to the public;

"(B) asbestos, if unrecognized or poorly managed, can cause serious adverse health effects, including lung cancer and other deadly and debilitating diseases;

"(C) though the Federal Government requires that school buildings be inspected for hazardous asbestos, there is no such requirement affecting buildings that are owned or leased by the Federal Government, or other publicly accessible buildings, nor is there any requirement that hazardous asbestos be abated in a safe and complete manner once it is discovered;

"(D) many buildings have not been inspected for hazardous asbestos, while others have been subjected to expensive abatement projects with no regulatory guidance from the Environmental Protection Agency on whether the actions are necessary, adequate, or safe; and

"(E) serious asbestos hazards continue to exist in certain buildings and some hazards actually may have been made worse due to the lack of national standards for asbestos hazards and abatement.

"(b) PURPOSES.—The purposes of this title are to—

"(1) provide for the establishment of Federal standards for the identification and abatement of hazardous asbestos in Federal and other buildings; and

"(2) mandate safe and complete inspection and abatement in accordance with those standards.

"SEC. 203. DEFINITIONS.

"For purposes of this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'Federal building' means any building which is owned by the Federal Government;

"(3) 'covered Federal building' means any Federal building included on the schedule established by the Administrator pursuant to section 206(b) of this title;

"(4) 'non-Federal building' means any building other than a Federal building, except that such term does not include any school building otherwise subject to an asbestos inspection and abatement program under Federal law, any private residential dwelling, or any commercial residential building having fewer than 10 residential units;

"(5) 'covered non-Federal building' means any non-Federal building which is included on the schedule established by the Administrator pursuant to section 206(b) of this title;

"(6) 'accredited asbestos contractor' means an individual who has successfully completed an Environmental Protection Agency approved training program, or a training program relating to asbestos inspections and abatement adopted pursuant to subsection (b) of section 205 of this title;

"(7) 'owner', when used in connection with a covered Federal building under this title, means the head of the department, agency, office, or other instrumentality of the United States having jurisdiction or control over such building;

"(8) 'asbestos' means friable asbestos, material which contains friable asbestos, and any covering of friable asbestos or material which contains friable asbestos;

"(9) 'friable asbestos' means chrysotile, amosite, or crocidolite, or, in fibrous form, tremolite, anthophyllite, or actinolite, which can be crumbled, pulverized, or reduced to powder by hand pressure;

"(10) 'abatement' means action taken to eliminate the hazards posed by asbestos, including enclosure, encapsulation, repair, or removal; and

"(11) 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"SEC. 204. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS ON IDENTIFICATION AND ABATEMENT OF ASBESTOS.

"(a) STANDARDS.—Within 180 days after the date of the enactment of this title, the Administrator shall promulgate the following:

"(1) Regulations which prescribe standards and procedures, including the use of trained personnel, for determining whether asbestos is present in buildings.

"(2) Regulations which prescribe standards for the circumstances in which the presence of asbestos in a building shall be considered hazardous. In any standard prescribed under this paragraph, asbestos shall be considered hazardous if the asbestos or its covering is—

"(A) visibly damaged, or

"(B) readily accessible in a manner which presents a reasonable likelihood of human exposure to airborne asbestos fibers.

"(3) Regulations which mandate abatement, in accordance with standards prescribed under paragraph (4) of this subsection, of hazardous asbestos found in any building included on the schedule established pursuant to section 206 of this title, as determined in accordance with standards prescribed under paragraphs (1) and (2) of this subsection.

"(4) Regulations which prescribe standards for performance of asbestos abatement activities in buildings and for determination of when the hazard has been abated. Such regulations shall include standards for protection for both workers and building occupants for the following phases of abatement activity:

"(A) Inspection.

"(B) Abatement.

"(C) Post-abatement, including any long-term operation and maintenance activity.

"(5) Regulations which prescribe standards for operation and maintenance plans for—

"(A) hazardous asbestos which is abated by a means other than removal, and

"(B) asbestos which is found not to be hazardous.

The regulations shall include provisions for the education and protection of workers and other persons who may come in contact with the asbestos, for periodic reinspection of the asbestos, and for procedures to be used for custodial activities, building management, repairs, and renovations.

"(6) Regulations which prescribe such standards for transportation and disposal of asbestos as may be necessary to protect human health and the environment.

"(b) HAZARDOUS ASBESTOS STANDARD IF ENVIRONMENTAL PROTECTION AGENCY FAILS TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under paragraphs (1) and (2) of subsection (a) of this section within the prescribed period, any asbestos or its covering which exists in a building included on the schedule established pursuant to section 206 of this title shall be considered hazardous if the asbestos is visibly damaged, with portions of the material dislodged, missing, cracked, deteriorated, showing evidence of water damage, or flaking, in any area in the building where there is a potential for human exposure, including an air plenum. Such standards shall be effective until such time as the Administrator promulgates different standards under regulations under paragraphs (1) and (2) of subsection (a) of this section.

"(c) ABATEMENT IF ENVIRONMENTAL PROTECTION AGENCY FAILS TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under paragraphs (3) and (4) of subsection (a) of this section within the prescribed period, and if any asbestos which is hazardous under the standard described in subsection (b) of this section exists in a building included on the schedule established pursuant to section 206 of the title, the owner of such building shall abate such asbestos in accordance with the most recent version of the Environmental Protection Agency's 'Guidance for Controlling Asbestos-Containing Materials in Buildings' (or any successor to such document). The ambient interior concentration of asbestos after the completion of abatement shall not exceed the ambient exterior concentration, discounting any contribution from any local stationary source. In the ab-

sence of reliable measurements, the exterior ambient concentration shall be deemed to be less than 0.003 fibers per cubic centimeter. A scanning election microscope shall be used to determine whether the standard has been met.

"(d) TRANSPORTATION AND DISPOSAL STANDARDS IF ENVIRONMENTAL PROTECTION AGENCY FAILS TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under subsection (a)(6) of this section within the prescribed period, any asbestos which is abated within a building included on the scheduled established pursuant to section 206 of this title shall be transported and disposed of in accordance with the most recent version of the Environmental Protection Agency's "Asbestos Waste Management Guidance" (or any successor to such document).

"SEC. 205. MODEL CONTRACTOR ACCREDITATION PLAN.

"(a) MODEL PLAN.—

"(1) PERSONS TO BE ACCREDITED.—Within 180 days after the date of the enactment of this title, the Administrator shall develop a model accreditation plan for States to give accreditation to persons for performance of the following functions:

"(A) inspection for asbestos in buildings;

"(B) preparation of asbestos management plans for such buildings;

"(C) abatement of asbestos in such buildings; and

"(D) laboratory analysis of bulk samples and air samples of asbestos from such buildings in laboratories.

"(2) PLAN REQUIREMENTS.—The plan shall include a requirement that any person performing a function listed in the preceding sentence achieve a passing grade on an examination pertaining to that function and participate in continuing education on current asbestos abatement technology. The examination shall assess the knowledge of the person in areas that the Administrator prescribes in regulations as necessary and appropriate for the performance of the functions listed in paragraph (1). Such regulations may include requirements for knowledge in the following areas:

"(A) recognition of asbestos and its physical characteristics;

"(B) health hazards of asbestos and the relationship between asbestos exposure and disease;

"(C) assessing the risk of asbestos exposure through a knowledge of percentage weight of asbestos, friability, age, deterioration, location and accessibility of materials, and advantages and disadvantages of dry and wet methods of abatement;

"(D) respirators and their use, care, selection, degree of protection afforded, fitting, testing, and maintenance and cleaning procedures;

"(E) approrpiate work practices and control methods including the use of high efficiency particle absolute vacuums, use of amended water, and principles of negative air pressure equipment use and procedures;

"(F) work area preparation for asbestos abatement, including isolation procedures to prevent bystander or public exposure, decontamination procedures, procedures for post-abatement dismantling of work areas, and waste disposal procedures;

"(G) establishing emergency procedures to respond to sudden releases;

"(H) air monitoring requirements and procedures;

"(I) medical surveillance program requirements; and

"(J) housekeeping and personal hygiene practices and procedures to prevent asbestos exposure to an employee's family.

"(b) STATE ADOPTION OF PLAN.—Within 180 days after the Administrator has developed a model contractor accreditation plan under subsection (a) of this section, each State shall—

"(1) adopt a contractor accreditation plan at least as stringent as that model, or

"(2) require that anyone practicing as a contractor in the State be accredited by another State which has adopted a contractor accreditation plan at least as stringent as the model plan.

"SEC. 206. CERTAIN BUILDINGS SUBJECT TO TITLE.

"(a) COVERED BUILDINGS.—After the date of the enactment of this title, all covered Federal Buildings and covered non-Federal buildings shall be required to be inspected for the purpose of determining the presence of asbestos material. Such inspection, together with action necessary to abate any hazardous asbestos found as a result of such inspection, shall be carried out in accordance with the provisions of this title.

"(b) SCHEDULE FOR ASBESTOS INSPECTION AND MANAGEMENT.—

"(1) PUBLICATION OF SCHEDULE.—Within the 12-month period following the date of the enactment of this title, the Administrator shall develop and publish in the Federal Register a schedule identifying and designating, by category, type, or class, the order in which Federal buildings shall be inspected for the presence of asbestos material and, if such material is found, a management plan developed and implemented in accordance with section 208 of this title. Except to the extent otherwise specifically provided herein, the development and publication of such schedule, including revisions and additions under paragraph (2) of this subsection, shall be within the discretion of the Administrator.

"(2) REVISIONS; ADDITIONS.—The Administrator shall, from time to time (but not less than biannually), review the schedule established pursuant to paragraph (1) of this subsection with a view to expediting, to the extent consistent with the availability of technical experts and personnel, and analytical resources, the inclusion on such schedule of additional categories, types, or classes of Federal buildings and non-Federal building. Any such additions shall be published in the Federal Register.

"(3) MATTERS TO BE CONSIDERED IN DEVELOPING SCHEDULE.—In making the determination of any such category, type, or class of building for inclusion on such schedule, or revisions and additions thereto, the Administrator shall consider, among other items or matters—

"(A) the size of building;

"(B) date of construction or renovation;

"(C) likelihood that building contains asbestos material;

"(D) availability of technical experts and personnel and analytical resources;

"(E) whether the determination is likely to adversely affect or impede the inspection for, or abatement of, hazardous asbestos in school buildings;

"(F) number of occupants and visitors utilizing such building; and

"(G) likelihood of use by children.

"SEC. 207. INSPECTION OF COVERED BUILDING.

"(a) INSPECTION REQUIREMENT.—Within 180 days after the Administrator has published his initial schedule in the Federal Register pursuant to section 206 of this title, or a revision or addition thereto, designating a particular category, type, or class of building as a part of such schedule, the owner of any such building shall conduct an inspection thereof to determine the presence or absence of asbestos materials in such building. Each owner, following such inspection, shall prepare a statement containing the following information for each such building so owned;

"(1) the dates of inspection;

"(2) the name, address, and qualifications of each inspector;

"(3) a description of the specific areas inspected, including an indication of whether the boiler room was inspected;

"(4) the results of such inspection; and

"(5) a description of any abatement action previously taken.

"(b) PUBLIC AVAILABILITY OF INSPECTION STATEMENT.—A notice of the availability of the inspection statement required under subsection (a) of this section shall be posted and shall remain posted in a conspicuous place on or within the building covered by such statement. A copy of such inspection statement shall be made available, upon request by any person, by the owner of the building covered by such plan.

"(c) AVAILABILITY OF INSPECTION STATEMENT.—A copy of each inspection statement made pursuant to subsection (a) of this section shall, within sixty days following its preparation, be submitted to the Administrator. Upon request of any Governor of a State to the Administrator for copies of such inspection statements, the Administrator shall make copies available pursuant to such request.

"SEC. 208. ASBESTOS MANAGEMENT PLANS.

"(a) MANAGEMENT PLAN.—Each owner of a building designated on the schedule established pursuant to section 206 of this title who, following an inspection pursuant to section 207 of this title, determines the presence of asbestos material or materials in such building, shall, not more than 60 days following such inspection, prepare a management plan for dealing with such asbestos. Each plan shall provide for compliance with the applicable regulations prescribed by the Administrator under section 204 of this title (or if there are no regulations, the applicable standards in subsections (a) and (b) of section 204 of this title) and shall include the following:

"(1) schedules for followup inspections for asbestos;

"(2) a detailed description of measures to be hazardous, including the location or locations at which an abatement action will be taken and the method or methods of abatement to be used;

"(3)(A) a detailed description of criteria and procedures which have been or which will be followed in selecting persons to abate the asbestos found to be hazardous; or

"(B) if the State has adopted a contractor accreditation plan similar to the model contractor accreditation plan developed under section 205 of this title, a statement that the owner of the building followed that plan in selecting such persons;

"(4) the names of the consultants, if any, who contributed to the plan, along with a description of their credentials;

"(5) a detailed description of any asbestos found in such building which was found not to be hazardous under the regulations prescribed under subsection (a) of section 204 of this title (or the standard in subsection (b) of section 204 of this title) and which is not visibly damaged or flaking; and

"(6) an operation and maintenance plan, with a provision requiring periodic reinspection, for—

"(A) asbestos which was abated by encapsulation rather than by removal, and

"(B) asbestos which was not abated because it was found not to be hazardous.

"(b) MANAGEMENT PLAN ACCREDITATION.—Each such management plan shall contain a statement by an accredited asbestos contractor that such contractor has prepared or assisted in the preparation of such plan, or has reviewed such plan, and that such plan is in compliance with the applicable regulations and standards promulgated or adopted pursuant to section 204 of this title, and other applicable provisions of law.

"(c) IMPLEMENTATION OF ASBESTOS ABATEMENT MANAGEMENT PLANS.—After an asbestos management plan has been developed in accordance with this section, the owner of the building covered by such plan shall implement the plan within 12 months.

"(d) PUBLIC AVAILABILITY OF ASBESTOS MANAGEMENT PLAN.—Notice of the availability of the asbestos management plan required under subsection (a) of this section shall be posted and shall remain posted in a conspicuous place on or within the building covered by such plan. A copy of such plan shall be made available, upon request by any person, by the owner of the building covered by such plan.

"(e) WARNING LABELS.—Any owner of a building who has carried out his or her management plan activities with respect to such building shall display warning labels at appropriate locations in such building, to notify building users of—

"(1) asbestos which was abated by encapsulation rather than removal and is subject to operation and maintenance activities, and

"(2) asbestos which was not abated because it was not found to be hazardous.

The warning label shall read, in print which is readily visible because of large size or bright color, as follows:

'CAUTION: ASBESTOS PRESENT. ASBESTOS CAUSES CANCER. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT'.

"SEC. 209. FEDERAL LEASING POLICIES.

"On and after the expiration of the thirty-six-month period following the date of the enactment of this title, no department, agency, or other entity or instrumentality of the United States shall enter into any purchase agreement or lease for the acquisition of real property for use by any department, agency, or other entity or instrumentality of the United States, unless such property has been inspected in accordance with the provisions of this title and found to be free of any asbestos material, or such property has been inspected and is, at the time of any such purchase or lease, subject to a valid and current asbestos abatement management plan that is in compliance with the provisions of this title and regulations and standards promulgated pursuant thereto.

"SEC. 210. ENVIRONMENTAL PROTECTION AGENCY RESPONSE AUTHORITY.

"(a) IN GENERAL.—Whenever—

"(1) the presence of asbestos in a building designated on the schedule, or revision thereof, of the Administrator pursuant to section 206 of this title may present an imminent and substantial endangerment to human health, and

"(2) the owner of such building is not taking sufficient action (as determined, in the case of a covered Federal building, by the Administrator or, in the case of a covered non-Federal building, by the Governor or the Administrator) to abate or arrange for the abatement of the asbestos,

the Administrator, in the case of a covered Federal building, or the Governor or the Administrator, in the case of a covered non-Federal building, is authorized to act, consistent with standards prescribed under this title, to abate or arrange for the abatement of the hazard, or to take any other response measure which the Administrator or the Governor deems necessary to protect human health.

"(b) COST RECOVERY.—The Administrator may seek reimbursement from any potentially responsible party in a court of the United States for all costs of abatement action under this section incurred by the United States Government.

"SEC. 211. ABATEMENT ACTION.

"When the Administrator, in the case of a covered Federal building, or the Governor of a State, in the case of a covered non-Federal building, determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the presence of asbestos in any such building, the Administrator may request the Attorney General of the United States, or the Governor may act, to secure such relief as may be necessary to abate such danger, including closure of the buildings. The district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief, including injunctive relief, as the public interest and the equities of the case may require.

"SEC. 212. PREEMPTION.

"Nothing in this title shall be construed as preempting a State from establishing any additional liability or requirements with respect to asbestos in non-Federal buildings within such State.

"SEC. 213. REPORT.

"The Administrator shall include, as a part of the annual report required by section 30 of the Toxic Substances Control Act, a report containing the following:

"(1) a summary of the information and other data (including inspection statements) available to the Administrator showing the extent to which asbestos was found in buildings covered by this title during the period covered by such annual report required by the Toxic Substances Control Act;

"(2) a summary of the abatement actions taken by owners of buildings covered by this title during the period covered by such annual report; and

"(3) a description of actions taken by the Administrator in the administration of this title during the period covered by such annual report, including information actions".".

SEC. 2. CONFORMING AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.

(a) CONFORMING AMENDMENT.—Section 15 of the Toxic Substances Control Act is amended in paragraph (1)—

(1) by striking out "or" before "(C)";

(2) by striking out the semicolon and inserting in lieu thereof a comma; and

(3) by adding at the end thereof the following: "or (D) any rule promulgated or order issued under title II;".

(b) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act is amended—

(1) by inserting immediately before section 1 the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

(2) by inserting in the table of contents in section 1, immediately before the item relating to section 1, the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES"; and

(3) by adding at the end of the table of contents in section 1 the following:

"TITLE II—FEDERAL BUILDING ASBESTOS HAZARD ABATEMENT

"Sec. 201. Short title.
"Sec. 202. Congressional findings and purposes.
"Sec. 203. Definitions.
"Sec. 204. Environmental Protection Agency regulations on identification and abatement of asbestos.
"Sec. 205. Model contractor accreditation plan.
"Sec. 206. Certain buildings subject to title.
"Sec. 207. Inspection of covered buildings.
"Sec. 208. Asbestos management plans.
"Sec. 209. Federal leasing policies.
"Sec. 210. Environmental Protection Agency response authority.
"Sec. 211. Abatement action.
"Sec. 212. Report.".

DESCRIPTION OF BILL

The bill would amend the Toxic Substances Control Act by adding to it a new Title II entitled the "Federal Building Asbestos Hazard Abatement Act of 1986."

Section 202 contains the Congressional findings and purpose of the bill.

Section 203 contains definitions.

Section 204 requires the Environmental Protection Agency to promulgate a series of regulations related to asbestos identification, hazard assessment, abatement, operation and maintenance procedures, transportation and disposal. Fall back standards in the bill would apply should EPA fail to promulgate the required standards.

Section 205 defines the components of a model contractor accreditation program that EPA is required to publish. It requires States to adopt accreditation programs based on the model.

Section 206 requires the Administrator to establish a schedule by which classes and categories of Federal buildings are to be inspected for asbestos. The schedule is to be reviewed and revised periodically in order to add additional classes and categories of Federal and non-Federal buildings to the schedule. In determining the schedule, the Administrator is required to consider a number of factors related to the likelihood of asbestos exposure, size and characteristics of the exposed populations, and availability of technical resources.

Section 207 requires that buildings be inspected within 6 months after being scheduled, and that inspection statements describing the results of the inspection be made available to any person. Copies of this statement also are to be sent to the Administrator.

Section 208 requires that asbestos management plans be developed for buildings in which asbestos is found, consistent with the EPA regulations and standards. The plan must describe the asbestos found in the building and the steps that will be taken to prevent or abate asbestos hazards. The plan must be implemented within a year and must be made available to the public. Asbestos remaining in a building must be labeled.

Section 209 prohibits purchase or lease of an asbestos-containing building by the Fed-

eral government after three years from enactment.

Section 210 authorizes the Administrator or the Governor of a State (in the case of non-Federal buildings) or the Administrator (in the case of Federal buildings), to act to abate asbestos that presents an imminent and substantial endangerment to human health. The Administrator is authorized to seek reimbursement from any potentially responsible party in a federal court.

Section 211 authorizes United States district courts to grant appropriate relief from asbestos that presents an imminent and substantial endangerment to public health.

Section 212 states that these requirements do not preempt states from establishing any additional liability or requirements with respect to asbestos in non-Federal buildings.

Section 213 requires an annual report to Congress summarizing actions taken in response to these requirements.

Section 214 contains conforming amendments to the Toxic Substances Control Act.

● Mr. BAUCUS. Mr. President, I am pleased to join Chairman STAFFORD and others in sponsoring legislation that addresses the critical issue of asbestos.

On February 20, 1986, I, along with Senator STAFFORD and others, introduced S. 2083, the Asbestos Hazard Emergency Response Act. This bill focused on the problem of asbestos in our Nations' schools.

The bill we are introducing today was designed to accompany S. 2083. It is the logical next step in addressing the overall problem of asbestos in buildings in the United States. This bill focuses on asbestos in Federal buildings.

It is well documented that when released into the air, asbestos fibers can cause lung cancer, asbestosis, pleural mesothelioma, and other debilitating lung diseases.

Unfortunately, Federal agencies are not doing an adequate job of detecting hazardous asbestos in federally owned buildings.

In some buildings, the asbestos is posing a serious threat and immediate removal is necessary. In other buildings, the asbestos is still intact and does not need to be removed. Federal agencies, like schools, need the proper guidance to make the correct decisions to protect building occupants and the general public.

While this bill focuses on asbestos in Federal buildings, it would later address the problem in non-Federal buildings. In effect, this bill would require the Government to clean up its act first before regulating non-Government properties.

Specifically, this bill would:

Require EPA to set standards for asbestos detection, management, removal, and disposal;

Establish certification programs for asbestos abatement contractors. This would ensure that States have a sufficient number of qualified contractors to safely remove and dispose of asbestos;

Require that all Federal buildings be inspected and appropriate action taken; and

Require EPA to identify classes and categories of non-Federal buildings to be added to the list of buildings to be subject to these requirements.

The U.S. Government must address the problem of asbestos in federally owned buildings. The lack of an organized, interagency effort to control the release of asbestos fibers has threatened the health of Federal employees and the general public for too long.

I urge my colleagues to support this important legislation.●

By Mr. CHILES:

S.J. Res. 319. Joint resolution commemorating the 25th anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny; to the Committee on the Judiciary.

COMMEMORATION OF 25TH ANNIVERSARY OF THE BAY OF PIGS INVASION

● Mr. CHILES. Mr. President, April 17 marks the 25th anniversary of the Bay of Pigs attempted liberation of Cuba. I introduce this joint resolution in commemoration of this important date. I intend my resolution to be a special and appropriate acknowledgement in honor of the men of the 2506 Brigade. Their bravery and unhesitating response to the call of duty is to be admired by all.

We must not allow time to dim our memory of the heroes of the 2506 Brigade. They stand as shining examples of the Cuban people's love for freedom, their willingness to fight for democratic principles, and their vow to restore liberty to their enslaved homeland. Twenty-five years after the Bay of Pigs attempted liberation, the desire is just as strong, the resolve as profound, the yearning as sincere that Cuba should be free.

It began on a Monday morning in April; the year was 1961; 1,400 men participated in an invasion that was to result in the liberation of Cuba. It was not to be. Three days later it ended with 114 dead, 1,189 men taken prisoners, a newly elected President embarrassed and a Cuban dictator still in power.

Historians have well documented what occurred on that day in Playa Giron. Political scientists have analyzed the decisionmaking process and the flaws which marked this effort. Pundits have volunteered their interpretation of the events which followed and the events which never unfolded as a result of the Bay of Pigs.

What I wish to make perfectly clear is that the men of the 2506 Brigade did not die in vain. The liberation of Cuba was not attained, but the battle which began on that day 25 years ago continues today. The desire for a free Cuba lives on.

Jose Marti wrote:

> Every man of justice and honor fights for liberty whenever he may see it offended, because that is to fight for his integrity as a man: and the one who sees liberty offended and does not fight for it, or helps those who offend—is not a whole man.

These words are certainly applicable to the men of the 2506 Brigade. Twenty-five years ago they proved themselves to be, in Jose Marti's words, whole men.

This resolution I introduce today is in commemoration of the brave men who fought and gave their lives so that their brothers in Cuba could breathe free. Their struggle for a free Cuba was a just one and it continues to be to this day. All of us know that the battle at the Playa Giron was not victorious, but it was a battle worth fighting.

As lovers of freedom, as defendors of liberty, we do not rest while liberty is denied in Cuba, in Nicaragua, in Afghanistan, and Angola. Freedom is only secure when it is defended.

As members of the Cuban-American community remember the men who fought on Playa Giron, I cannot even begin to share in their very personal pain over the loss of loved ones and the loss of a nation. I do share, however, the pride in the heroes of Playa Giron. In memory of their deeds and in memory of the lives which were lost the battle for a free Cuba will continue. Again, borrowing Jose Marti's words, as whole men we will fight where we see liberty offended. We will fight against injustice, against oppression and tyranny so long as the Cuban nation remains in chains.●

By Mr. MITCHELL:

S.J. Res. 320. Joint resolution to designate April 17, 1987, as "National Pension Day"; to the Committee on the Judiciary.

NATIONAL PENSION DAY

● Mr. MITCHELL. Mr. President, I am introducing a joint resolution today which would mark April 17 as National Pension Day.

Few factors have given our American working men and women more long-term protection than the development and strengthening of the private pension system which provides for workers when their working days are over.

Nobody discounts the vital role played by the tax-financed income security programs, especially Social Security.

But private pensions are the essential element of financial security in retirement that supplement Government-financed programs. Without the pension protection that workers earn by their years of labor, the retirement plans of millions of Americans would be very different, the living conditions of millions of retired people would be much more straightened.

Pension protection should continue to be expanded and offered to American workers across the board. With the appropriate safeguards as to portability and vesting, each worker should be able to feel secure in the fact that decades of honest labor will ultimately mean retirement years of fair compensation in return.

The dedication of the Sheetmetal Workers Pension Building on April 17 is an appropriate recognition of the pivotal importance of pension programs to workers today.

And the recognition of April 17 as National Pension Day would mark an entirely appropriate national recognition of that fact.●

By Mr. LUGAR (for himself, Mr. ABDNOR, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. CRANSTON, Mr. DENTON, Mr. DOLE, Mr. DURENBERGER, Mr. HARKIN, Mr. HATCH, Mrs. HAWKINS, Mr. HEINZ, Mr. HOLLINGS, Mr. KERRY, Mr. LEVIN, Mr. MATHIAS, Mr. MATTINGLY, Mr. METZENBAUM, Mr. NICKLES, Mr. NUNN, Mr. PRYOR, Mr. SIMON, Mr. WARNER, and Mr. WILSON):

S.J. Res. 321. Joint resolution to designate October 1986 as "National Down Syndrome Month"; to the Committee on the Judiciary.

NATIONAL DOWN SYNDROME MONTH

● Mr. LUGAR. Mr. President, I rise today to introduce legislation to designate the month of October as "National Down syndrome Month." I introduced legislation proclaiming October as "National Down Syndrome Month" that was signed into law in 1984 and 1985, and I am convinced that such a law in 1986 will constitute another important step toward encouraging continued understanding and advancement in the medical and educational programs concerned with Down syndrome.

Down syndrome occurs once in every 1,000 births. It results from a genetic mishap in which an extra chromosome, No. 21—which affects physical and mental development—is found within the individual's genetic material. For years, Down syndrome carried the stigma of being a hopeless impediment to a meaningful and productive life.

Happily, the past 15 years have brought a revolution in terms of discovering the potential for individuals with Down syndrome. Significant medical advances have enabled correction of a number of the congenital disorders associated with Down syndrome, which have impeded normal functioning in society. Moreover, infant stimulation programs taught to parents of babies with Down syndrome, have increased intellectual development far beyond previous expectations.

Since the enactment of Public Law 94-142, we see the rewards of educating the developmentally disabled in our public schools, both in terms of their increased achievements, and, consequently, the contributions that these children will make to society in the future as productive citizens.

At one time, the birth of a child with a mental handicap was tantamount to a life of anguish, despair and certain institutionalization. Today, however, we know differently. Today we dream dreams for our children with handicaps. Today we make them a part of all that we do; we integrate them into the community and educate them through appropriate programs.

An integral part of this process has been the fostering of public awareness, the dissolution of old stereotypes and stigmas about Down syndrome, and an acceptance of these individuals into the mainstream of our society. Given the tremendous success of October 1984 and October 1985 as "National down syndrome Month," I am confident that this resolution will again contribute to that education and acceptance.

Mr. President, I would like to thank and commend my distinguished colleagues who have joined me in cosponsoring this resolution. I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 321

Whereas the past decade has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas, through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome; to develop special education classes within maintreamed programs in schools; the provisions for vocational training in preparation for competitive employment in the work force and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas along with this improvement in educational opportunities for those with Down syndrome is the advancement in medical science which is adding to a more brightened outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 is designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 1322

At the request of Mr. HECHT, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1322, a bill to amend the Geothermal Steam Act of 1970.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

S. 2081

At the request of Mr. STAFFORD, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2081, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, for deferred cost care programs, and for other purposes.

S. 2083

At the request of Mr. STAFFORD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2083, a bill to amend the Toxic Substances Control Act to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in the Nation's schools, to mandate abatement of hazardous asbestos in the Nation's schools in accordance with those standards, to require local educational agencies to prepare asbestos management plans, and for other purposes.

S. 2221

At the request of Mrs. KASSEBAUM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2221, a bill to amend section 108 of the Internal Revenue Code of 1954 to provide that the discharge of certain farm indebtedness shall not be included in gross income.

S. 2266

At the request of Mr. CRANSTON, the name of the Senator from Montana [Mr. BAUCUS] was added as a cospon-

sor of S. 2266, a bill to establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

S. 2273

At the request of Mr. KASTEN, the names of the Senator from South Dakota [Mr. ABDNOR], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of S. 2273, a bill to amend the Internal Revenue Code of 1954 to deny the tax exemption for interest on industrial development bonds used to finance acquisition of farm property by foreign persons.

S. 2274

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2274, a bill to provide that certain individuals who are not citizens of the United States and certain persons who are not individuals shall be ineligible to receive financial assistance under the price support and related programs administered by the Secretary of Agriculture.

S. 2284

At the request of Mr. NICKLES the names of the Senator from Georgia [Mr. MATTINGLY], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 2284, a bill to amend the Food Security Act of 1985 to require the Secretary of Agriculture to take certain actions to minimize the adverse effect of the milk production termination program on beef, pork, and lamb producers, and for other purposes.

S. 2288

At the request of Mr. CHILES, the names of the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. HEFLIN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under one year of age.

SENATE JOINT RESOLUTION 241

At the request of Mr. DOLE, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 241, a joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. MOYNIHAN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Joint Resolution 282, a joint resolution to express the disapproval of the Congress with respect to the proposed rescission of budget authority for the general revenue sharing program.

SENATE JOINT RESOLUTION 301

At the request of Mr. NICKLES, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 301, a joint resolution designating the week of May 18, 1986, through May 23, 1986, as "National Food Bank Week."

SENATE JOINT RESOLUTION 310

At the request of Mr. HELMS, the names of the Senator from North Dakota [Mr. ANDREWS], the Senator from Oklahoma [Mr. BOREN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from North Dakota [Mr. BURDICK], the Senator from Mississippi [Mr. COCHRAN], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. FORD], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], the Senator from Louisiana [Mr. LONG], the Senator from Indiana [Mr. LUGAR], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Indiana [Mr. QUAYLE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 310, a joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. CRANSTON, the name of the Senator from South Carolina [Mr. HOLLINGS], was added as a cosponsor of Senate Joint Resolution 311, a joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week".

SENATE JOINT RESOLUTION 312

At the request of Mr. D'AMATO, the names of the Senator from South Carolina [Mr. HOLLINGS] the Senator from Kansas [Mr. DOLE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 312, a joint resolution designating the week beginning April 13, 1986, as "National Medical Laboratory Week".

SENATE JOINT RESOLUTION 316

At the request of Mr. CRANSTON, the names of the Senator from Florida [Mr. CHILES], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 316, a joint resolution prohibiting the sale to Saudi Arabia of certain defense articles and related defense services.

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. NICKLES, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 122, a concurrent resolution to express the sense of Congress with respect to agricultural loan restructuring.

SENATE RESOLUTION 342

At the request of Mr. D'AMATO, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of Senate Resolution 342, a resolution to provide for the designation of the month of May 1986, as "Genetic Disorder Awareness Month".

SENATE RESOLUTION 374

At the request of Mr. FORD, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Indiana [Mr. LUGAR], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 374, a resolution limiting the amount that may be expended by Senators for mass mailings during the remainder of fiscal year 1986.

SENATE RESOLUTION 382—RELATIVE TO THE DEATH OF REPRESENTATIVE JOSEPH P. ADDABBO OF NEW YORK

Mr. DOLE (for Mr. D'AMATO, for himself and Mr. MOYNIHAN) submitted the following resolution; which was considered and agreed to.

S. RES. 382

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Joseph P. Addabbo, late a Representative from the State of New York.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

AMENDMENTS SUBMITTED

FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS

CRANSTON AMENDMENT NO. 1782

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 2231) to amend the Federal Deposit Insurance Act; as follows:

At the end of the bill, add the following:

TITLE II—DEFERRALS

SEC. 201. SHORT TITLE.

This title may be cited as the "Agricultural Credit Act of 1986".

SEC. 202. IN GENERAL.

(a) REQUIREMENTS FOR RECEIVING PAYMENTS.—If a qualified lender agrees to defer principal or interest payments under this title with respect to an agricultural loan to a qualified borrower, the Secretary, and appropriate State authorities (if so authorized under State law), shall make payments to that lender as described in section 203.

(b) LIMITATION ON LOAN AMOUNTS.—A deferral of principal and interest payments under this title may be made only with respect to loan amounts of a borrower totaling, in the aggregate, not more than—

(1) $500,000 in the case of a qualified borrower who is an individual; and

(2) $700,000 in the case of a qualified borrower who is a person other than an individual.

(c) PERIOD FOR INITIATING REFERRALS OF PRINCIPAL AND INTEREST.—

(1) Except as provided in paragraph (2), a deferral of principal and interest payments under this title may be made only within 90 days after the lender has received an application for such deferral submitted by the borrower within one year after the date of enactment of this Act.

(2) Paragraph (1) does not apply to a deferral of principal and interest payments made during the period beginning six months before the date of enactment of this Act and ending on the date of enactment.

SEC. 203. STATE AND FEDERAL INTEREST RATE PAYMENTS.

(a) PAYMENTS BY THE SECRETARY.—If the lender defers the principal or interest accruing on a loan throughout the period that an interest deferral remains in effect under section 205(a) by (1) 2 percent of the interest and 10 percent of the principal; (2) 1 percent of the interest and 15 percent of the principal; or (3) 20 percent or more of the principal, the Secretary, through the Farmers Home Administration, shall pay to the qualified lender making a deferral of principal and interest under section 204—

(1) an amount equal to the amount of the deferral by the lender but not to exceed 2 percentage points of the interest accruing on such loan throughout the period that an interest deferral remains in effect under section 205(a): and

(2) any amount received by the Secretary under subsection (b).

Any payment under this subsection shall be passed on to the borrower.

(b) PAYMENTS BY APPROPRIATE STATE AUTHORITIES.—With respect to a loan for which a deferral of principal or interest is made under section 205, the appropriate State authorities (if so authorized under State law), shall pay to the Secretary an amount equal to 2 percentage points of the interest accruing on such loan throughout the period that such deferral remains in effect under section 205(a).

SEC. 204. AMOUNTS OF PRINCIPAL AND INTEREST RATE DEFERRAL.

(a) TABLE.—Except as provided in subsection (b), the deferrals referred to in section 203 are as follows:

Bank Interest Deferral		Bank Principal Deferral	Federal Contribution	State Contribution	Total Deferral in States Authorizing Payments	Total Deferral in States not Authorizing Payments
2%	and	10%	2%	2%	6% interest 10% principal	4% interest 10% principal
1%	and	15%	2%	2%	5% interest 15% principal	3% interest 15% principal
0%	and	20%	2%	2%	4% interest 20% principal	2% interest 20% principal

(b) EXCEPTION IN THE CASE OF FIXED RATE LOANS.—In lieu of a principal deferral described under the second column of the table in subsection (a), a lender may defer the interest on a loan by an amount which will yield loan payments by the borrower comparable to loan payments which would be due under such principal deferral. An interest rate deferral under this subsection shall be in addition to any interest rate deferral described in the table in subsection (a).

SEC. 205. DEFERRAL PERIOD.

(a) DURATION OF INTEREST RATE DEFERRALS.—Except as provided in subsection (c), interest rate deferrals made under section 204 shall be in effect for the duration of the loan or for a period of three years from the date of enactment of this Act, whichever is less.

(b) INTEREST RATES FOLLOWING DEFERRAL PERIOD.—At the end of the period described in subsection (a) any interest rate charged on the balance of principal outstanding on a loan cannot exceed the standard rate charged by the lender for a comparable loan.

(c) EXCEPTION IN THE CASE OF INTEREST RATE DEFERRALS MADE IN LIEU OF PRINCIPAL DEFERRALS.—Interest rate deferrals made under section 204 in lieu of principal deferrals shall remain in effect for the duration of the loan.

SEC. 206. RECAPTURE IN THE EVENT OF NON-MONETARY DEFAULT.

In the event of non-monetary default by a qualified borrower on the terms of a loan whose terms are modified under this title, without consent by the lender, a qualified lender may enforce the terms of such loan as they existed before such modification.

SEC. 207. GUIDELINES.

(a) DEVELOPMENT OF GUIDELINES.—Each lender receiving a payment under section 203 shall develop guidelines for determining which borrowers shall receive interest or principal deferrals under this title.

(b) TERMINATION OF STATE AND FEDERAL PAYMENTS UPON FORECLOSURE.—No payment under section 203 shall be made with respect to a loan after a lender compels the forfeiture by a borrower of any security for such loan.

SEC. 208. USE OF CERTAIN FUNDS.

(a) USE OF AGRICULTURAL CREDIT INSURANCE FUND TO MAKE PAYMENTS.—The Secretary shall use the Agricultural Credit Insurance Fund established under section 309 of the Consolidated Farm and Rural Development Act to make payments under section 203(a)(1).

(b) DISCRETIONARY USE OF CERTAIN FUNDS.—The Secretary, at the Secretary's discretion, may use, to make payments under section 203(a)(1) during fiscal years 1986, 1987, 1988, and 1989 funds which would otherwise be available to the Secretary during such years under section 351(e)(2) of the Consolidated Farm and Rural Development Act.

SEC. 209. REGULATIONS.

The Secretary shall prescribe regulations to implement this title within 30 days after the date of enactment of this title.

SEC. 210. LIMITATIONS ON STATE LAWS RESPECTING FIXED RATE LOANS.

Any provision of the laws or constitution of any State which prohibits fixed rate loans shall not apply to extensions of credit made under this title or title IV.

SEC. 211. PENALTY FOR MISUSE OF FUNDS.

Whoever embezzles, misapplies, steals, or obtains by fraud, false statements, or forgery, any funds, assets, or property provided or financed under this title shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

SEC. 212. DEFINITIONS.

As used in this title and title IV—

(1) the term "agricultural loan" means a loan made to finance the production of agricultural products or livestock in the United States or a loan secured by agricultural property;

(2) the term "agricultural property" means land in the United States that is in regular use for the production of agricultural commodities for sale and any personal property used on such land in the production of agricultural commodities;

(3) the term "qualified agricultural debt restructuring"—

(A) means any combination of—

(i) a deferral in the principal due on an agricultural loan to a qualified borrower for the duration of the loan;

(ii) a deferral in the interest due on such loan for the duration of the loan;

(iii) an extension of the term to maturity of such loan; or

(iv) an asset restructuring plan entered into between the borrower and lender, the terms of which shall, within ten years of the date on which such plan is made, accomplish the purposes of the Agricultural Credit Act of 1986 and the amendments made by such Act; but

(B) does not include any such combination which—

(i) reduces the term to maturity of a loan; or

(ii) is made with respect to loan amounts of a qualified borrower totaling, in the aggregate, more than—

(I) $500,000 in the case of a qualified borrower who is an individual; and

(II) $700,000 in the case of a qualified borrower who is a person other than an individual;

(4) the term "qualified borrower" means, with respect to an agricultural loan, a person who—

(A) has derived at least 50 percent of the person's gross income during at least four of the previous five years from the production of agricultural commodities, including livestock, poultry, and the products of aquaculture;

(B) has gross annual sales of agricultural commodities of at least $30,000 during three of the last five taxable years ending before the date of enactment of this Act;

(C) has an average net income of less than $100,000 during the last 3 taxable years before the date of enactment of this Act;

(D) is delinquent in the payment of principal or interest on such loan; and

(E) enters into a restructuring and asset liquidation plan acceptable to the lender which—

(i) demonstrates a reasonable likelihood that the borrower will be able to repay the

amount of the loan if debt restructuring is made;

(ii) contains a schedule for the liquidation by the borrower of such assets as the lender may require as a condition for such restructuring; and

(iii) provides for annual review by the lender to ensure that the borrower is making a good faith effort to carry out the plan;

(5) the term "qualified lender" means a—

(A) commercial bank;

(B) savings and loan association;

(C) credit union;

(D) insurance company; or

(E) institution of the Farm Credit System;

(6) the term "qualified State institution" means a State chartered depository institution, the deposits of which are insured or guaranteed under the laws of a State;

(7) the term "Secretary" means the Secretary of Agriculture;

(8) the term "State" means each of the several States, the Distirct of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(9) the term "deferral" means a postponement of payment until the borrower can demonstrate an ability to repay. The Secretary shall determine the rate of repayment and shall apportion repayments among the lender, the State, and the Secretary.

TITLE III—CONSERVATION PROVISIONS

SEC. 301. PROHIBITING ASSISTANCE TO BORROWERS WHO PRODUCE COMMODITIES ON ERODIBLE LAND.

Section 1211 of the Food Security Act of 1985 is amended—

(1) by striking out "or" where it appears after the semicolon in paragraph (1)(E);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(3) treatment as a qualified borrower for purposes of title I of the Agricultural Credit Act of 1986.".

SEC. 302. PROHIBITING ASSISTANCE TO BORROWERS WHO PRODUCE COMMODITIES ON CONVERTED WETLANDS.

Section 1221 of the Food Security Act of 1985 is amended—

(1) by striking out "or" where it appears after the semicolon in paragraph (1)(E);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or" and

(3) by adding at the end the following new paragraph:

"(3) treatment as a qualified borrower for purposes of title II of the Agricultural Credit Act of 1986.".

TITLE IV—ACCOUNTING PROVISIONS

SEC. 401. FEDERAL REGULATION OF THE ACCOUNTING FOR RESTRUCTURED AGRICULTURAL LOANS.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end the following new subsection:

"(k)(1) IN GENERAL.—The appropriate Federal banking agency shall—

"(A) permit an insured bank to account for qualified agricultural debt restructuring under paragraph (2);

"(B) establish a program of capital forbearance under paragraph (3) for an insured bank engaging in qualified agricultural debt restructuring; and

"(C) implement call report requirements under paragraph (4) with respect to qualified agricultural debt restructuring.

"(2) ACCOUNTING OF RESTRUCTURED LOANS.—Consistent with generally accepted accounting principles, an insured bank engaging in qualified agricultural debt restructuring involving only modification of terms may account for the effects of the restructuring prospectively and will not be required to change the recorded investment at the time of the restructuring unless the recorded investment exceeds the total future cash receipts that can be reasonably anticipated given the new terms of the loan.

"(3) CAPITAL FORBEARANCE PROGRAM.—

"(A) Under a capital forbearance program under this paragraph the appropriate Federal banking agency shall permit the capital of an insured bank qualifying under this paragraph to fall below any applicable minimum capital requirement established by such agency to the extent that the reduction in such capital is attributable to qualified agricultural debt restructuring.

"(B) In order for an insured bank to qualify under subparagraph (A) such bank shall, before December 31, 1987, submit to the appropriate Federal banking agency an application containing a plan acceptable to such agency which details the insured bank's program to restore primary capital to levels at or above the regulatory minimum not later than January 1, 1993.

"(C) The appropriate Federal banking agency may establish additional specific requirements consistent with the requirements of this Act which any insured bank must meet in order to qualify under subparagraph (A), including requirements that such an insured bank—

"(i) demonstrate that its weakened capital position is not due to mismanagement, excessive operating expenses, excessive dividends, or action taken solely for the purpose of qualifying for capital forbearance;

"(ii) adopt and adhere to its plan for restoring capital to the required minimums; and

"(iii) report periodically to the appropriate Federal banking agency on its progress in complying with the plan submitted under clause (ii).

"(4) CALL REPORTS.—Each Federal banking agency shall implement call report requirements for loans restructured under qualified agricultural debt restructuring, providing an accurate description of their status. Such loans may be disclosed as 'Restructured and in Compliance With Modified Terms' or similar description.

"(5) IMPLEMENTATION DEADLINE.—Each Federal banking agency shall issue its program on capital forbearance and call report requirements for renegotiated loans not later than three days after the date of enactment of this subsection.

"(6) GUIDELINES.—Each insured bank shall develop guidelines for determining which borrowers shall receive qualified agricultural debt restructuring.

"(7) RECAPTURE IN THE EVENT OF NON-MONETARY DEFAULT.—In the event of non-monetary default by a qualified borrower on the terms of a loan modified by qualified agricultural debt restructuring without, consent by the lender, an insured bank may enforce the terms of such loan as they existed before such restructuring occurred.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) terms defined for purposes of the Agricultural Credit Act of 1986 shall apply to this subsection;

"(B) the term 'insured bank' means an insured bank which is not an agricultural bank or energy bank as defined in subsection (j)(6); and

"(C) the term 'capital forbearance' means refraining from taking administrative actions to enforce capital standards.".

SEC. 402. MODIFICATION OF LENDING LIMITATIONS FOR LENDERS THAT RESTRUCTURE AGRICULTURAL LOANS.

Section 5200(a) of the Revised Statutes (12 U.S.C. 84(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following:

"(3) If the Comptroller of the Currency establishes a capital forbearance program pursuant to section 13(k) of the Federal Deposit Insurance Act, the Comptroller of the Currency shall, without public notice and comment, amend the regulations under this section to establish new lending limits for insured banks covered by the forbearance program, individually or as a class, to compensate for the effects on such insured banks for losses attributable to qualified agricultural debt restructuring. A lending limitation established pursuant to this paragraph in lieu of the limitation established in paragraph (1) shall not exceed 20 percent of the unimpaired capital and unimpaired surplus of an association."; and

(3) by striking out, in the paragraph redesignated as paragraph (4) by this section "paragraphs (1) and (2)", and inserting in lieu thereof "paragraphs (1), (2), and (3)".

SEC. 403. REGULATION OF THE ACCOUNTING FOR RESTRUCTURED AGRICULTURAL LOANS BY STATE INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding any provision of the laws or constitution of any State, each appropriate State banking agency shall—

(1) permit qualified State institutions to account for qualified agricultural debt restructuring in the manner described in section 13(k) of the Federal Deposit Insurance Act;

(2) establish a program of capital forbearance in the manner described in section 13(k) of such Act for qualified State institutions engaging in qualified agricultural debt restructuring; and

(3) implement call report requirements of the kind described in section 13(k) of such Act with respect to qualified agricultural debt restructuring by qualified State institutions.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a hearing on Tuesday, April 22, 1986 on the implementation of title XVIII of Public Law 99-272, the Reconciliation Act. The hearing will commence at 2 p.m. and will be held in room 428A of the Russell Senate Office Building. For further information, please call Bob Wilson, chief counsel of the committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, April 14, in closed executive session to hold a hearing on defense of NATO, in review of S. 2199, the fiscal year 1987 DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. I also ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, April 14, to hold a hearing on the following nominations: William F. Martin to be Deputy Secretary of Energy, and David P. Waller, to be Assistant Secretary of Energy for International Affairs and Energy Emergency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Monday, April 14, 1986, in order to mark up H.R. 3838, the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DEFENSE REORGANIZATION

● Mr. GOLDWATER. Mr. President, because of circumstances over which I have no control, it was not possible for me to be present today when S. 2295, the bill on defense reorganization reported by the Armed Services Committee, and its accompanying report were filed. I merely want to say that this legislation is the result of a study initiated over 3 years ago by former Senators John Tower and Scoop Jackson.

A study has been made by a highly competent staff who questioned a great number of individuals and who studied many treaties on the subject of defense reorganization. This, again, was not something that either Senator NUNN or I instigated or asked for.

If each of you will recall, the Constitution charges us "To raise and support armies" and "To provide and maintain a Navy." The Constitution also empowers the Congress "To make rules for the Government and regulation of the land and naval forces." Since the writing of the Constitution, the Congress has often neglected this second responsibility. We did create the Secretary of Defense, the Air Force, and the Joint Chiefs of Staff in 1947, and we made certain improvements in these areas between 1947 and 1958. But since 1958, the Congress has not given enough attention to the important area of defense organization and procedures.

It is our responsibility to the Constitution that motivates me. I hope that my colleagues will understand this, and I hope that my friends in uniform will understand it. I have never pretended to be an expert on the military whose expertise has been gained by combat. The truth of the matter is, no one ever shot at me during World War II. I can say that mainly because I was never hit, nor did I ever fire a shot at anyone else. My decorations include one, the Air Medal, for having flown a single-engine P-47 aircraft across the North Atlantic Ocean during the war. The rest of my time was spent with the Air Transport Command supervising two transport runs from the United States to India, Burma, and China. There were a few runs across the so-called Hump.

I explain this because I do not want anyone thinking that I am attempting to back up the legislation and report that have been submitted by any claim of expertise in the subject on my part. As I have explained before, my actions have been prompted and motivated entirely by the Constitution and my responsibility as a Member of the Congress to it.

I have the utmost respect for the man in uniform and for his commanders. I have seen some of the things they have to go through. I have witnessed from the Congress the impositions that have been placed upon the military by Congressional micromanagement. I say to my friends in uniform and to my fellow Members of the Congress, all I want to see come out of this is a better military, better able to conduct itself in battle, better able to defend the United States in this new era where force is of such importance.

There will, naturally, be many efforts to amend this legislation. We have already had more than 80 attempts to amend it in the committee, and there will, undoubtedly, be many other areas where my colleagues will feel an amendment will improve them. But I beg of my colleagues not to clutter this bill up with extraneous material. The thorough study it has received can guarantee that, if properly passed by both Houses, signed by the President, and accompanied by the recommendations of the Packard Commission, the military will take a giant step forward. Going into battle will no longer raise a lot of the problems that have been raised in the past.●

AIDS

● Mr. SIMON. Mr. President, the Center for Disease Control recently reported that the AIDS virus quite possibly can be infecting more than 1,000 people each day. Of these 1,000 infected, between 10 to 20 percent will develop AIDS within 5 years. More than 18,800 cases of AIDS to date have been reported to the Center for Disease Control. This number is expected to double within 13 to 15 months.

The average lifespan of a person once diagnosed with AIDS is a year and a half. Very few diagnosed as having AIDS have lived longer than 5 years.

The cost to American taxpayers of caring for future AIDS patients may be overwhelming. In one of the first studies to assess the economic impact of the first 10,000 cases of AIDS, JAMA, on January 10, 1986, reported that approximately $147,000 is being spent on hospital care for each AIDS patient. The first 10,000 AIDS victims will require 1.6 million days in the hospital at a cost of $1.4 billion. Treatment for the next 200,000 AIDS patients in the United States could total $28 billion by 1990.

The disability rate for all patients with AIDS for the period from diagnosis until death is 86 percent. Because over 90 percent of the victims are between the ages of 20 and 49, it has been estimated that the lost future earnings because of premature death for just the first 10,000 AIDS victims is $4.6 billion. The expenditures for hospitalization, income lost due to disability, and lost future earnings total $6.3 billion for the first 10,000 AIDS cases in the United States.

Those cost figures may differ somewhat depending upon the geographic location of the patients, the availability of non-hospital-based health care and patient management. But despite some regional differences, I find these cost figures staggering. These figures can only be reduced through more rapid diagnosis of the disease, development of treatment strategies based on sound research protocols, and increased availability of appropriate patient care settings.

President Reagan, in his budget message to Congress, included AIDS research among the "high priority programs in crucial areas of national interest." Yet under the President's budget for 1986, there is a reduction in funding for AIDS research and control of $15 million. Cumulatively between 1987 and 1991, the President's proposed budgets, as compared with funds already authorized by Congress, would further reduce funding for AIDS research by almost $75 million.

AIDS is a fatal disease. The loss of productivity due to the disease is tremendous. The intangible costs related to AIDS, such as pain and suffering and adverse effects on personal relationships, are also great. Resources used and lost as a result of AIDS will continue to increase unless continued

efforts are directed toward prevention strategies. I urge my colleagues to join me in supporting increased funding for AIDS research and control.

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act," as amended.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, April 14, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through April 11, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

No changes have occurred since my last report.

With best wishes,
Sincerely,

RUDOLPH G. PENNER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S SENATE, 99TH CONGRESS, 2D SESSION, AS OF APRIL 11, 1986

[Fiscal Year 1986—in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,057.1	980.7	778.6	2,001.3
Budget Resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by		13.1		
Under resolution by	12.6		17.1	77.4

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF APR. 11, 1986

[In million of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds.	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions.	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation urgent supplemental appropriation, 1986 (Public Law 99–243).			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251).		4	
VA home loan guarantee amendments (Public Law 99–255).		−51	
Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).	−4,259	−6,001	765
Department of Agriculture urgent supplemental, 1986 (Public Law 99–263).			
Advance to Hazardous Substance Response Trust Fund (Public Law 99–270).			
Total	−4,259	−6,048	765
III. Continuing resolution authority:			
IV. Conference agreements ratified by both Houses.			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Veterans compensation.	272	185	
Veterans readjustment benefits.	91	91	
Compact of free association.	205	205	
Special benefits (Federal employees).	14	14	
Family social services	100	75	
Guaranteed student loans.	6		
Payment to civil service retirement [1].	(37)	(37)	
Total entitlements	688	570	
Total current level as of Apr. 11, 1986.	1,057,108	980,681	778,559
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.		13,081	
Under budget resolution.	12,592		17,141

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.●

S. 2220, THE MUTUAL NUCLEAR WARHEAD TESTING MORATORIUM ACT

● Mr. SIMON. Mr. President, I was pleased to join with my distinguished colleagues Senators CRANSTON, HATFIELD, KERRY, and HARKIN in introducing S. 2220 on March 21, 1986. The bill calls for a mutual, verifiable moratorium on nuclear testing, a step long overdue and in our national security interest.

What does the bill call for? It asks that the President resume negotiations with the Soviet Union on a Comprehensive Test Ban Treaty and that we cease further testing if the Soviets do the same. If President Reagan will not cease further testing, then, beginning 30 days after enactment of our bill, no funds can be spent on the testing of nuclear warheads for a period of 6 months. As a precaution, funds may be expended to prepare test sites to respond to a Soviet breakout from the moratorium. The President can test again only if he certifies that the U.S.S.R. has resumed testing. Finally, the President must submit in the 3 months' time and annually thereafter a report to Congress outlining the status of nuclear arms control negotiations and whether he believes the test ban is in our national security interest.

Sadly, the day after we introduced our bill the Department of Energy conducted its first nuclear test of 1986. The Soviet leader, Mikhail Gorbachev, had offered to extend the moratorium beyond the end of March if we would join them. The Reagan administration maintains that a nuclear test ban is not verifiable and, even if it were, would not in any event be in our best interest. Defense and Energy Department officials repeat the myth over and over again that as long as nuclear deterrence is the basis of our security, we will need to make periodic tests to check on our stockpile's reliability.

But seven of the Nation's top nuclear scientists—Hans Bethe, Norris Bradbury, Richard Garwin, Spurgeon Keeney, Wolfgang Panofsky, George Rathjens, and Herbert Scoville—disagree. Their letter to Chairman DANTE FASCELL of May 14, 1985, says very clearly that "nuclear testing is not necessary in order to insure the reliability" of our nuclear weapons. The best way, they say, to check reliability is to "disassemble sample weapons" and subject their components to nonnuclear testing.

At this point I would like to ask that their letter be printed in full in the RECORD.

Mr. President, according to the Natural Resources Defense Council's recent study on nuclear testing, the United States has conducted 799 tests from 1945 through 1985. Last week's test was the 800th. The Soviets have tested 604 times, the French 141, the British 39, the Chinese 30, and the Indians 1. The total is an unbelievable 1,615 nuclear tests, almost half of them by the United States.

What have we gained from all this testing? Do any of us feel more secure because of our testing program? Isn't it time to reverse the direction of the

arms race, to stop new destabilizing warhead designs that both sides will inevitably manufacture and deploy?

When President Reagan refused to go along with the Soviet moratorium last summer, he said we had to catch up. But we have had 200 more tests than the Soviets. In what way do we need to catch up? Is our nuclear arsenal qualitatively inferior? No lab director that I am aware of has ever made this kind of assertion, nor will they because it simply isn't true.

Could it be that we need to test nuclear explosives to investigate the SDI's x-ray Laser, which is powered by a nuclear explosion? Could it be that the nonnuclear defense proclaimed again and again by President Reagan cannot survive without nuclear weapons? If this is the case, then how will nuclear weapons be rendered "impotent and obsolete," the whole point of the star wars program? We need to decide whether the $600 million requested by the Department of Energy in fiscal year 1987 for SDI's "nuclear-driven concepts" is consistent with the objectives of the SDI program, and more importantly whether we should let SDI get in the way of a comprehensive test ban.

Finally, on the subject of verification, virtually all of our leading seismologists have testified that we can verify with high confidence a test moratorium. Seismic technology is so good that we can detect explosions in hard rock down to a level below 1 kiloton with our international network of monitoring stations. Our Norwegian station picked up just such a subkiloton blast from the main Soviet test site at Semipalatinsk last July 11. And with a network of tamper-proof seismic sensors located at one another's test sites, supplemented by periodic onsite inspections, a comprehensive ban can be verified with high confidence. The U.S.S.R. has agreed to both in-country sensors and onsite inspections; only the details need to be worked out. That is why it is so important to resume negotiations on a test ban, and to ratify the already signed Threshold Test Ban and Peaceful Nuclear Explosions Treaties.

We need to turn the arms race around. This bill will help move us in this direction. We can verify a comprehensive test ban. It's in our interest. And it is time to act responsibly on behalf of ourselves and future generations.

I submit for the RECORD a letter sent to Representative DANTE FASCELL by a number of distinguished Americans relating to this matter.

MAY 14, 1985.

Hon. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Continued nuclear testing is not necessary in order to insure the reliability of the nuclear weapons in our stockpile. The best way to confirm reliability is to disassemble sample weapons and to subject the components to non-nuclear tests. Weapons can also be detonated without their nuclear components in order to insure that the complete assembly operates correctly. Nonexplosive tests are also available for determining whether the nuclear components have deteriorated during storage. If aging problems are found in some components, these components can be replaced with newly fabricated ones, using the orginal design specifications.

In the past these techniques have identified a number of reliability problems. In no case, however, was the discovery of a reliability problem dependent on a nuclear test and in no case would it have been necessary to conduct a nuclear test to remedy the problem.

In any event, it would be completely impractical to conduct the large number of nuclear tests that would be required to establish by this method a statistically meaningful measure of the reliability of stockpiled weapons.

We hope these observations will be useful to you in considering the Comprehensive Test Ban.

Sincerely,

Hans Bethe, Nobel Laureate in Physics, former Director, Theoretical Division, Los Alamos National Laboratories; Norris Bradbury, former Director, Los Alamos National Laboratories; Richard Garwin, IBM Fellow, Thomas J. Watson Research Center, Consultant, Department of Defense, Department of Energy; Spurgeon M. Keeny, Jr., former Deputy Director, ACDA; Wolfgang Panofsky, former Director, Stanford Linear Accelerator; George Rathjens, former Deputy Director, Defense Advanced Research Projects Agency (DARPA); Herbert Scoville, Jr., former Deputy Director, CIA, former Technical Director, Defense Department Armed Forces Special Weapons Project; Paul Warnke, former Director, ACDA.

SALE OF U.S. CONSULATE BUILDING IN VENICE, ITALY

● Mr. PRESSLER. Mr. President, earlier this month, I became aware of certain information pertaining to the sale of the former U.S. consulate building in Venice, Italy. This building is one of the premier architectural prizes located on the Grand Canal in Venice.

In an effort to determine the veracity of the information I have received, I have written to Secretary of State George Shultz requesting a State Department reaction to this information. Many of our distinguished colleagues share our concern over appropriate ways to reduce unnecessary Government spending and to obtain full value for the American taxpayer when Federal properties are disposed of. They may be interested in this information. Therefore, I ask that my letter to Secretary Shultz be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, April 9, 1986.

Hon. GEORGE SHULTZ,
Secretary, Department of State, Washington, DC.

DEAR MR. SECRETARY: Information I have received suggests that the United States government soon may sell a valuable building in Venice, Italy at a small fraction of its actual value. Thus, I would appreciate your comments and reactions on the following information. I make no claim that this information is true—therefore your response will help to clarify this matter.

The property is the former U.S. Consulate, located on the Grand Canal next to the Guggenheim Museum.

Under the leadership of a former American ambassador, it was arranged for the building to be sold to his alma mater, Wake Forest University, for $250,000. The sale was mandated by Public Law 93-264 of April 12, 1974, and the State Department entered into a sales contract with the university on November 6, 1974.

Various transactions slowed Italian approval of this transaction for several years, but on June 29, 1983, a deed of sale was approved, contingent on the clearances of national government authorities in Italy. Except for the Italian Foreign Ministry, all the necessary clearances have been approved.

Current valuation estimates by Italian realtors indicate that this irreplaceable artistic building is worth as much as $40 million, or as much as 160 times the actual sales price.

There are indications of deep resentment on the part of Italians who regard the sale of this building as improper and as demonstrating a lack of American understanding about the importance attached by Italians to the disposition of this property of particular public and artistic interest.

Mr. Secretary, I bring this to your attention for two reasons. First, I would like to have your assessment of the accuracy of the above points and some evaluation of whether the sale of this historic building was handled properly. It would be my intention to share your response to me with my colleagues through the CONGRESSIONAL RECORD.

Second, in view of the urgent deficit reduction efforts—including proposed consular closings—being undertaken throughout the government, I would appreciate receiving an analysis of whether we are receiving fair value for this property. Would it be possible to retain ownership of the building and arrange leases with responsible parties at annual lease rates equivalent to the entire $250,000 sales price? If such is the case, would it not be a rational choice for the U.S. government to retain ownership, particularly in view of the prohibitive cost of purchasing another suitable building should we decide later to establish a consulate in Venice?

As indicated above, the Italian Foreign Ministry has not yet rendered a final judgment on this matter. If it is true that we could save millions of dollars for the U.S. government and American taxpayers and at the same time avoid offending the citizens of an important ally, then it is important for the appropriate signals to be sent as soon as possible. Thus, I would be most grateful for your prompt response to this inquiry.

Sincerely,

LARRY PRESSLER, *Chairman, Subcommittee on European Affairs.*

71-059 O-87-3 (Pt. 6)

NAUM AND INNA MEIMAN: THE BERN CONFERENCE

● Mr. SIMON. Mr. President, tomorrow marks the first day of the Conference on Human Contacts in Bern, Switzerland. The Conference will last approximately 6 weeks and includes all of the signatories to the Helsinki accords. The Soviet Union and the United States will have a unique opportunity to discuss ways to resolve pressing human rights cases.

One of the most poignant cases is that of Naum and Inna Meiman. Naum was a renowned scientist until he began his activism in the Helsinki Monitoring Group, a watchdog organization in the Soviet Union that documents human rights violations there. Naum applied to emigrate to Israel over 10 years ago and was joined by Inna in that application when the two were married 5 years ago.

Since that time, the Meimans have suffered many hardships, including the involuntary retirement which the Soviets forced upon Naum. Inna is now critically ill with cancer. She has had four operations for tumors at the top of her spine. Although a fifth tumor is growing, Inna has been told that there is nothing more that the Soviet doctors will do for her. Even with Inna's illness, the harassment continues. The Meimans' telephone was recently disconnected.

To highlight the critical nature of the Meimans' plight, I want to inform my colleagues of a news event to coincide with the opening of the Bern Conference tomorrow with Senator HART, Senator BOSCHWITZ, Congressman WIRTH, Congressman SIKORSKI, myself and Olga Plam, Inna's daughter. Also in attendance will be a cancer specialist from Indiana who has seen Inna and has determined that she can be treated in the West. Only by raising our voices in protest will the Meimans' case be resolved.

I urge the Soviets to allow the Meimans to emigrate to Israel.●

ORDERS FOR TUESDAY

RECESS UNTIL 9:15 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:15 a.m. on Tuesday, April 15, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Following the recognition of the two leaders under the standing order, I ask unanimous consent that there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, CRANSTON, HATFIELD, PROXMIRE, DOMENICI, and CHILES.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent there is a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 426—HYDRORELICENSING BILL

Mr. DOLE. At the conclusion of routine morning business, by a previous unanimous consent, the Senate will resume consideration of S. 426, the hydrorelicensing bill.

MID-DAY RECESS

I ask unanimous consent that the Senate stand in recess between the hours of 12 noon, and 2 p.m., in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. At 2 p.m. the Senator from Colorado [Mr. HART] will be recognized to offer a substitute amendment to S. 426, and it may be that between 10 and noon, the distinguished Senator from Montana, Senator MELCHER, will be in a position either to offer an amendment or indicate that he will not offer one or more amendments to the hydrorelicensing bill.

Votes can be expected throughout the day, and it is the intention of the majority leader to complete acton on S. 426 tomorrow and the Senate could possibly vote cloture on the motion to proceed to the Hobbs Act. It may be that we will by agreement go to the Hobbs Act and then file a cloture motion on the bill itself and have that cloture vote on Thursday.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, and pursuant to Senate Resolution 382, as a further mark of respect to the memory of the deceased Honorable Joseph P. Addabbo, late a Representative from the State of New York, that the Senate stand in recess until 9:15 a.m. tomorrow.

The motion was agreed to, and at 6:31 p.m., the Senate recessed until tomorrow, Tuesday, April 15, 1986, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 1986:

DEPARTMENT OF STATE

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State, vice William Lockhart Ball III.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Robert Brendon Keating, of the District of Columbia, to be U.S. Executive Director of the International Bank for Reconstruction and Development for a term of 2 years, vice James B. Burnham, resigned.

BOARD FOR INTERNATIONAL BROADCASTING

Lilla Burt Cummings Tower, of Texas, to be a member of the Board for International Broadcasting for the remainder of the term expiring May 20, 1986, vice Frank Shakespeare.

Lilla Burt Cummings Tower, of Texas, to be a member of the Board for International Broadcasting for a term expiring May 20, 1989, (reappointment).

DEPARTMENT OF THE TREASURY

J. Michael Hudson, of Texas, to be a Deputy Under Secretary of the Treasury, vice Bruce E. Thompson, Jr., resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Gerald T. Bartlett, [redacted], U.S. Army.

IN THE MARINE CORPS

The following-named colonels of the Marine Corps for promotion to the permanent grade of brigadier general, under title 10, United States Code, section 624:

James E. Sniffen	Jeremiah W. Pearson III
John S. Grinalds	Walter E. Boomer
David V. Shuter	Frank A. Huey
Bobby G. Butcher	John A. Studds
George L. Cates	William M. Keys
Richard H. Huckaby	